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First Session, 39th Parliament

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Première session, 39^e législature

Official Report of Debates (Hansard)

Monday 18 August 2008

Journal des débats (Hansard)

Lundi 18 août 2008

Select committee on
elections

Comité spécial des
élections

Chair: Greg Sorbara
Clerk: Katch Koch

Président : Greg Sorbara
Greffier : Katch Koch

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON
ELECTIONSCOMITÉ SPÉCIAL DES
ÉLECTIONS

Monday 18 August 2008

Lundi 18 août 2008

The committee met at 1035 in committee room 1.

ORGANIZATION

The Chair (Mr. Greg Sorbara): This is a momentous occasion for me. Oh, my God, and we're being broadcast as well. I'm in my 23rd year, on and off, in the Legislature and I've never had the opportunity to chair a committee, whether select or standing or specific or otherwise. So I am going to ask my colleagues on this committee to bear with me as I learn yet another task.

I want to begin by thanking all three of you for the indulgence of coming here on a beautiful August 18. I know there was some hope that we could put this off until September, but I just thought it would be best to get an organizational meeting under our belt so that by the time we get busier in September we'll have taken care of a number of details and can move more quickly into the actual business that we're here to conduct.

Can I just take a moment to introduce my assistant Sharon Laredo, who will be the best person to consult on making sure that I am discharging my functions and, when I'm not, if you complain to her she will have me in proper shape tout de suite. Sharon knows as much about what we are hoping to accomplish here as anyone. And I want to thank Katch for helping me out in my first instructions on chairing this committee.

There are six things that I would like to be able to do today. The first is just a general discussion of the terms of reference. On the question of appointing a subcommittee, which I think probably might be a good idea, of all the members of the committee, that simply is so that we can convene a meeting by way of telephone conference call. I don't think there's any other reason to appoint a subcommittee. The third is a request for some research from the folks in the Legislative Assembly. The fourth is a proposal to hire John Hollins—I was mentioning this, Norm, to Peter when you came in.

Mr. Norman W. Sterling: John?

The Chair (Mr. Greg Sorbara): John Hollins is the former Chief Electoral Officer for the province—as a consultant to the committee.

Mr. Norman W. Sterling: I don't want to do that.

The Chair (Mr. Greg Sorbara): You don't want to do that.

Mr. Norman W. Sterling: No.

The Chair (Mr. Greg Sorbara): Well—

Mr. Norman W. Sterling: Let's have a discussion.

Mr. Peter Kormos: Chair, if I may, can we go in camera before we commence this meeting?

The Chair (Mr. Greg Sorbara): Sure.

Mr. Peter Kormos: I move that we move in camera.

The Chair (Mr. Greg Sorbara): I think that's acceptable, sure. Agreed.

The committee continued in closed session from 1040 to 1109.

The Chair (Mr. Greg Sorbara): Okay, we're back. A motion from David Zimmer.

Mr. David Zimmer: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting; and

That the subcommittee be composed of the following members: the Chair as Chair, Mr. Hampton, Mr. Sterling and Mr. Zimmer; and that substitution be permitted on the subcommittee.

The Chair (Mr. Greg Sorbara): Any discussion or comments? If none, I'll put the question. All those in favour? Opposed? Carried.

That's a great start.

We need a formal request of legislative research to begin a review of the three acts that are within our scope. David, could you do that?

Mr. David Zimmer: Yes, I move that legislative research begin the study of what the Chair has just referenced.

The Chair (Mr. Greg Sorbara): Is that agreed?

Mr. Norman W. Sterling: I just wanted to see if it's possible—I don't know whether Mr. Johnston has the time, but I'd like a quick review of other North American jurisdictions in terms of where they are, which jurisdiction are leading, which jurisdictions have a high voter turnout, which ones are making changes one way or the other, just so we have a picture of what's going on in North America. I'm talking not only about our other provinces, but some of the states in the United States.

The Chair (Mr. Greg Sorbara): Okay, so you're talking about a review of trends within North American jurisdictions on developments in the deployment of general elections.

Mr. Norman W. Sterling: Right.

The Chair (Mr. Greg Sorbara): I think that's reasonable.

Mr. David Zimmer: May I just throw out this observation? Not only states in North America, but it might well be that states in Australia and perhaps New Zealand have similar—

The Chair (Mr. Greg Sorbara): Let us then include New Zealand and Australia, but no in-depth study of devolution in Scotland or in Wales.

Mr. David Zimmer: Absolutely. But I understand some of the Australian states have got some pretty leading—

The Chair (Mr. Greg Sorbara): A review of the research primarily in North America, Australia and New Zealand.

Mr. Norman W. Sterling: One of the reasons that I said North America is that I think it's important from a political standpoint not only to look at what is happening technically from their particular election officers, but if it was close by, we could ask other political entities to come forward to the committee and talk to us about how it impacts on them and whether they agree with the direction that the election officers are going in. I think the politicians probably have the most practical feeling for these because they live through them during the electoral process. That's why I was interested to see if there were any close jurisdictions to us, so that we can invite those particular not only election officers, but—

The Chair (Mr. Greg Sorbara): We'll have a look at that after the work comes in.

Mr. Norman W. Sterling: Sure.

The Chair (Mr. Greg Sorbara): Okay, what do we need to do about a budget?

Interjection.

The Chair (Mr. Greg Sorbara): The clerk will draft a budget and then we'll put that before a meeting of the subcommittee. We'll probably do that by phone sometime over the course of the next couple of weeks.

Mr. Larry Johnston: Can I ask about a deadline for the research?

The Chair (Mr. Greg Sorbara): A deadline for the research? Tomorrow afternoon at 3.

Well, a preliminary look by the time of our first meeting, which would be—how do we determine when we meet next?

Interjection.

The Chair (Mr. Greg Sorbara): I anticipate that we will have a meeting some time in mid-to-late September, so let's say mid-September would be fine.

Mr. Larry Johnston: Mid-September?

Mr. Norman W. Sterling: The Legislature is scheduled to come back when, the 22nd?

The Chair (Mr. Greg Sorbara): I think that's right, so it will be some time—you know what? Think in terms of some time after the recall of the Legislature. It may well be that we want to have a meeting before then if members are available, and in particular to have an opening elongated session with the former chief elections officer. Maybe the best thing to do is to have that session first and then decide whether or not you want to retain him to continue to work for the committee. But there's no place to start other than with a full, long meeting with the former elections officer.

Is that okay? Are we going to have a battle about that or do you feel good about that?

Okay. Just to conclude, I don't want to take the air out of the balloon, but I just want to reiterate that from my perspective, the mandate of the committee is to review and discuss key changes or additions that need to be made to each of the three acts from the perspective of consolidation, modernization and housekeeping, without any appetite to revisit major questions of policy on electoral democracy or election financing. That was my understanding of my mandate when I took on this job, and, given the time that we have, if we can do that well, I think we will serve the people of the province well, and its system of elections, the idea being that by the time 2011 comes by we have a system that serves all of us much better than the one that we will be leaving.

Any other questions or comments from members of the committee? Motion to adjourn?

Mr. David Zimmer: So moved.

The Chair (Mr. Greg Sorbara): Thank you. We'll see you all soon. Have a good rest of the summer.

The committee adjourned at 1117.



CONTENTS

Monday 18 August 2008

Organization.....

EL-1

SELECT COMMITTEE ON ELECTIONS

Chair / Président

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Howard Hampton (Kenora–Rainy River ND)

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Norman W. Sterling (Carleton–Mississippi Mills PC)

Mr. David Zimmer (Willowdale L)

Substitutions / Membres remplaçants

Mr. Peter Kormos (Welland ND)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Mr. Larry Johnston, research officer,
Research and Information Services

EL-2



EL-2

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SELECT COMMITTEE ON
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Thursday 16 October 2008

Jeudi 16 octobre 2008

The committee met at 0902 in room 1.

ORGANIZATION

The Chair (Mr. Greg Sorbara): We are now on the record. As the clerk advises me, there are three things before you this morning: a draft budget, research work prepared by Larry Johnston and a letter or a memo from John Hollins, the former Chief Election Officer.

Just on that score, I'll put it on the table that I'm no longer going to propose that he act as a consultant to the committee. I think the views of both of the members from the opposition parties were clear on that. I'm fine with that. I am going to propose perhaps later in the day if it's appropriate that we call him as our first witness, so that we can get the benefit of his experience and ask him whatever questions are appropriate just to get the juices flowing as to what weaknesses there are in the act.

Is it appropriate, Katch, that we deal with the budget first? Did you have any comments beforehand?

Interjection.

Mr. Norman W. Sterling: I'm sorry. I don't mind dealing with the budget now or whatever it is, but we haven't talked about what we're going to do, how many hearings we're going to have or—we're going to do all of these kinds of things. It's a little difficult to strike a budget when you—I think the biggest part of the budget is \$40,000 for advertising. Are we going to travel the province and have wide hearings? That's the only question I have.

The Chair (Mr. Greg Sorbara): So let's get into a discussion of the budget. This is a very bare-bones budget which does not provide for travel around the province. It would be my recommendation that we do not travel around the province. Again, this is my own view, and I think the mandate that I received was to do a modernization and housecleaning of the acts that didn't involve major issues of policy. So my view was that it wasn't necessary to travel around the province and hold a lot of public hearings, but get the people in here who understand the machinery of the three acts and how that machinery could be improved in anticipation of the next election.

Mr. Norman W. Sterling: Katch, in terms of the parliamentary channel: When a committee is having hearings, do we have an advertising function on the channel where we can say that the Select Committee on Elections

is going to have hearings, and if anybody wants to write in they can write in?

The Clerk of the Committee (Mr. Katch Koch): Yes, we do. We normally advertise any hearings on the parliamentary channel and also on the Legislative Assembly website.

Mr. Norman W. Sterling: Okay. My view is that we should narrow our focus on people who are tuned into the channel, perhaps universities, ask them if they have some interest, write to all the returning officers, all the MPPs and say, "If you have any input, come forward." I don't know whether \$40,000 in a general publication is necessary. That's the only point that I would make on the budget.

Mr. David Zimmer: At our last meeting, I thought on the business of the budget from the clerk that the budget was going to be a notional budget, if you will, and as we worked through to see just how this committee was going to go about doing its work, that in fact we'd fine-tune the budget as we went along. But I was already of the view that this was a notional budget and some of those entries—and indeed there are still some blank question mark pieces. So if it's a notional budget, perhaps we can adopt it and then move on to the substantive discussion and see where that takes us in terms of adjusting the budget.

Mr. Peter Kormos: I agree with Mr. Zimmer. In many respects the budget helps provide structure for the nature of the process, because the budget tells you how much you're going to travel or not travel. The budget tells you how much you're going to advertise. So, here we are, we support the budget. Obviously there may be a need to readdress it, but we're ready to proceed with this now.

The Chair (Mr. Greg Sorbara): Okay. So there is a draft motion. Who moves this? Perhaps if Mr. Zimmer could move it.

Mr. David Zimmer: I move that a budget of \$72,700 for the Select Committee on Elections be approved and that the Chair be authorized to present it to the Board of Internal Economy.

Just some debate on that for a second.

The Chair (Mr. Greg Sorbara): Any debate? All those in favour?

Mr. David Zimmer: May I, Chair? Perhaps a question to the clerk. If we want to adjust the budget, Mr. Clerk, should there be anything else in this motion?

The Clerk of the Committee (Mr. Katch Koch): No. At any time committee can agree to go to the board for additional—

Mr. David Zimmer: Okay. Thank you.

Mr. Peter Kormos: I should express this one consideration: Some of the material that's already been prepared refers to the distinctiveness of rural and isolated communities, and I just want to indicate that there may be a need to address those issues by actually visiting, however difficult that might be, especially as wintertime approaches. I just want to express it again. I'm thinking more specifically about northern communities, remote northern communities and aboriginal communities.

The Chair (Mr. Greg Sorbara): If it turns out that the committee wishes to do that, I think we can submit an amended budget, so we'll just leave that as a possibility.

Mr. Peter Kormos: I just wanted to put that little mark there.

0910

The Chair (Mr. Greg Sorbara): Right. Okay. All those in favour of the motion? Opposed? Abstentions? Carried.

Just to deal with the next materials, I note that there are two submissions in front of us. One is research prepared by Larry Johnston on our behalf, and there's a summary of issues prepared by the former chief returning officer, John Hollins. I've had an opportunity to have a look at both documents, ever so briefly, but I think it's a good start.

I guess what I'm going to suggest to the committee is that we have a look at these materials—there could be some discussion this morning to begin to focus on the orbit of our interest and our attention—and that at our next meeting we have an opportunity to hear from John Hollins, probably for the full period that we have available to us, and more if necessary. Then after that, I think this committee would benefit from a much more structured definition of the areas where we're going to direct our attention. I'm wondering how people feel about that.

Mr. Norman W. Sterling: I went to my caucus two weeks ago and put down 15 or 16 questions sort of going to where Mr. Hollins's report was. I asked my MPPs just to mark on a sheet of paper whether they agreed or disagreed. On quite a number of the issues, it was almost tied. I got 10 out of the 24 in the caucus responding to me, and often it was 5-5, 5-4, 4-5 or whatever. So I would really like to agree with you, Mr. Chairman, in trying to narrow the focus down into a number of questions that we can consult on with our caucus members.

Perhaps rather than asking participants to come here and talk about the width and breadth of the election process, we can pose a number of areas where we ask them to agree, disagree or comment. We could then send that kind of document to the various political parties, the party executives of people who participated in the election, and also to all of the returning officers across Ontario so that we could get some kind of idea, and then give them an opportunity to respond to us, almost like a survey as such. We'd have an idea from the people who

have their feet on the ground as to whether there are actually real problems out there associated with one or another of the issues that have been raised in Mr. Hollins's report or raised by somebody on the committee.

Mr. Peter Kormos: The Hollins recommendations, this October 15 memo, are as good a starting point as any, but I do know Mr. Johnston refers to the obligatory report of the chief returning officer with recommendations under the Election Finances Act. I suppose we should be interested in the status of that report, because that obviously is going to be a formal document prepared by Hollins.

The Chair (Mr. Greg Sorbara): I don't know about that. I don't think that's in yet, but it is something that could capture the attention of the committee. I'll make inquiries about when one might expect that.

Mr. David Zimmer: I rather like this idea of the committee giving a very tight structure and focus not on this exact kind of response, but the issues that we want to hear about from the various people who have a responsible interest in this—rather than just inviting people in, turning the floor over to them and letting them think randomly at large, this idea of focusing: "We'd like to hear from you on this issue, this issue, and this issue."

The Chair (Mr. Greg Sorbara): Yes, and I think that's consistent with what Norm has said. Within our own caucus and our own party organization, we're having some sit-down sessions about—"Okay, talk to us about machinery. Tell us about where the system works and how it would work better." I assume that both of the other parties are going to do that, and that will give us a better perspective on it.

Mr. Peter Kormos: That's why I make reference to the report. That is a formal document that will be tabled, and that seems to me to be the sort of starting point for any number of people who want to participate in the committee. In other words, that kick-starts this process and people then have something to refer to. I suppose the focus then would primarily be the committee's response to the report and its recommendations, obviously with some capacity to expand that. That's why I am saying that is a formal document, as compared to the memo of Mr. Hollins. It would be something that would be publicly accessible and consistent, and that's why I made reference to it. It would be really good to have that for folks who wanted to participate here, wouldn't it, Mr. Zimmer?

The Chair (Mr. Greg Sorbara): I think that's right. We will make inquiries and advise as to when we might expect that report.

Mr. David Zimmer: We'll wait to hear back from the Chair on this.

The Chair (Mr. Greg Sorbara): Yes, that's right.

Mr. Norman W. Sterling: As a matter of process, what I would like to go through—and I often thought that this would be really, really good for general committee structure, because there could be a huge number of people who might be interested in commenting on this and we're reluctant to say no to anyone. The process I would like to think about—and I'm interested in hearing

what other members of the committee have to say—would be to invite, in the first blush, people other than Mr. Hollins and perhaps the present election—

The Chair (Mr. Greg Sorbara): Chief returning officer.

Mr. Norman W. Sterling: Chief returning officer—to write to us and say, “Here’s what I would like to say to the committee.” Then, the committee could decide from those written submissions if there were some people who made a lot of sense in their written submissions and we’d like to hear more about them and question them about it, and we could take care of some of the concerns that Mr. Kormos has raised with regard to issues that are specific to certain areas. If somebody had a great point with regard to rural vouching or whatever, then we could call that particular individual in or the head of whatever that particular association might be. I think that that would be a great way to proceed—

The Chair (Mr. Greg Sorbara): I’m not offended by that at all. In other work that I do around this place, we have used the model of public consultations. I’m just finishing that up on tourism and did that every year before a budget. It gave people an opportunity just to put whatever it is that they have on their mind on the table.

Katch, if we wanted to say to the general public that this committee is inviting the public, in particular those in the public familiar with the electoral system, to write to the committee, raising issues and questions and concerns that should come to the committee’s attention, how would we do that?

The Clerk of the Committee (Mr. Katch Koch): There are two ways to do it. One way is to invite individuals you feel you’d like to hear from. The other is to simply advertise on our parliamentary channel or the Internet site.

Mr. David Zimmer: Are they mutually exclusive, or could you do both?

The Clerk of the Committee (Mr. Katch Koch): You could do both.

Mr. Norman W. Sterling: I think we should do both, and then say to people, if time is going to be somewhat limited in terms of being able to hear submissions, “If you want to make a submission, then write us and give us a brief outline of what your submission would contain, and the committee will then prioritize, depending upon the focus of the committee and the interests in the views.”

The Chair (Mr. Greg Sorbara): Are you comfortable with that?

Mr. Peter Kormos: I have no concerns about opening those floodgates.

The Chair (Mr. Greg Sorbara): Well, neither do I, actually. This act is not going to come up for consideration and review a lot, so I think it would be interesting to see the recommendations that come in.

0920

In putting out that call, I think we need to make it clear that we are not putting out a call for new ways to approach democratic elections in the province of Ontario.

The committee is looking at amendments and modernization of the Elections Act to better deploy the election system that we have, and then invite written submissions. I’m fine with Norm’s approach to filtering through those and seeing if there are two or three or five or 10 people we would want to have come and talk with us. Are you okay with that, David?

Mr. David Zimmer: Yes.

The Chair (Mr. Greg Sorbara): Okay, so the clerk suggests that he craft an ad and bring it back to the committee for next week. This is also something that, if we needed to, we could do by way of a subcommittee telephone meeting, but I think because we’re meeting next week, we can do that. Are we agreed that we will invite John Hollins to come as a witness next week?

Mr. Norman W. Sterling: Is Larry going to be here next week?

Mr. David Zimmer: I’m sorry, I didn’t hear that.

Mr. Norman W. Sterling: Is Larry, our researcher, going to be here next week? Andrew’s sitting in for him, so I presume he’s away.

Interjection: Yes.

Mr. Norman W. Sterling: Maybe before we would do that, we might want to have sort of a briefing session with Larry at 9 o’clock and then have Mr. Hollins after that. I don’t know—that’s how we carry on our PAC committee.

Mr. David Zimmer: On public accounts, that process works rather well; that is, the committee meets in camera from 9 to 9:30 or a quarter to 10 or whatever, and gets a background briefing so that they have some context in which to listen to, in this case, Hollins. Hollins comes in half an hour later and goes through the thing, but we have a background briefing, if you will.

The Chair (Mr. Greg Sorbara): I’m okay with that. I just need to be reminded of the way in which these committees operate. We have till 10:30, is that right? Or 10:25, and then that’s it. I think that’ll mean that we will want Hollins here for two sessions, because—

Mr. Norman W. Sterling: As far as I’m concerned, we can be briefed at 8:30. It’s fine with me, I don’t know—how about Peter or—

The Chair (Mr. Greg Sorbara): Can we do that?

Mr. David Zimmer: Have a briefing from 8:30 to—we do that on the public accounts committee. When the deputy minister comes in, we have a half-hour briefing before. So if we met from 8:30 to 9, had the staff briefing and then got at it at 9 o’clock?

The Chair (Mr. Greg Sorbara): Okay, that’s fine with me.

Mr. Peter Kormos: And 7:30 is fine as well.

Mr. David Zimmer: No, no. You’re pushing it, Peter.

The Chair (Mr. Greg Sorbara): It’s all dependent on the state of the Don Valley Parkway, as far as I’m concerned.

Mr. Peter Kormos: The role, then, of—I’m worried because Hollins is going to be here in a week’s time without there having been any effective advertising, right? Because the draft ad isn’t coming back until next

week, so the public is not aware by way of formal notification of what's happening here. People who are interested in what Hollins may have to say won't have the chance to hear it so that they can use that as a framework for what they want to comment on. Is this a briefing by Mr. Hollins, as compared to his formal presentation on the issues to help us create this framework?

The Chair (Mr. Greg Sorbara): I think it's his analysis based on his experience of where the acts need attention and themes for how you might go about amending the act. I think we're going to hear from him. I don't know if we'll get it all done in one day, because he's got a wealth of experience, but can we not simply, at least on the Internet and the parliamentary channels, notify people that he will be here next week? Is that possible?

Mr. Norman W. Sterling: One thing, I think, is when Mr. Hollins is here, we should be meeting in the other room, where it can be televised, so that it can be replayed if people want to—

The Chair (Mr. Greg Sorbara): Is that possible?

The Clerk of the Committee (Mr. Katch Koch): I will see if 151 is available.

Mr. David Zimmer: I think Peter raises a good point here. If we get Hollins in next week and, rather than his briefing to us, it's his testimony, if you will, then we probably don't have enough time to advertise to the public that he's coming in to give his testimony, so to speak. No doubt there will be various people out there who will think we've tried to slide Hollins through without giving them a chance to—

The Chair (Mr. Greg Sorbara): Okay. You know what? Why don't we spend next week with our researchers and our own analysis, because that could take up quite a bit of time—more than half an hour, I think, if we go through all the work that Larry and the folks there have done—and then propose to have Hollins here in two weeks' time? How would that be?

Mr. David Zimmer: I agree with that. That's good. That gets rid of the criticism that we're trying to slide Hollins through without subjecting it to public observation.

The Chair (Mr. Greg Sorbara): Peter, do you feel agreeable to that?

Mr. Peter Kormos: Agreeable.

The Chair (Mr. Greg Sorbara): I'm just looking at my own—well, shall we work on that basis, that we'll develop an ad—

Interjections.

Mr. Norman W. Sterling: What date would that be for Mr. Hollins, then?

The Chair (Mr. Greg Sorbara): October 30.

Mr. Norman W. Sterling: I don't think we should go into the next week because that's the Thursday before the constituency break. Okay; that's fine. The 30th is fine.

The Chair (Mr. Greg Sorbara): Yes. It's in the morning. Peter?

Mr. Peter Kormos: Having said that, can we not decide now about the text of the ad? It seems to me that the committee requested a review of the three acts within

its scope—the Elections Act, the Representation Act, the Election Finances Act—and that is the framework, right?

The Chair (Mr. Greg Sorbara): Yes. Why don't we get Katch to develop something, get it by way of e-mail to everyone, and some time over the next day or two or three we can have a very quick conference call and approve of it?

Mr. Peter Kormos: Let's have a goal of Monday.

The Chair (Mr. Greg Sorbara): A goal of Monday.

Mr. Norman W. Sterling: We can do it by tomorrow, I'm sure.

The Chair (Mr. Greg Sorbara): Whatever. We'll start at 9 next week, if we're not going to—we'll just check out, after we finish here, about availability.

Any other organizational issues?

Mr. Norman W. Sterling: I think all of us should think about other witnesses we might want to have and we would find. I don't know whether—is Ms. Wells still the assistant to the Chief Electoral Officer?

The Chair (Mr. Greg Sorbara): I don't know.

Mr. Norman W. Sterling: She's a lawyer—

The Chair (Mr. Greg Sorbara): I'm getting a nod from Sharon at the back of the room. The answer is, yes, she is.

Mr. Norman W. Sterling: She has been there in the office for a long period of time, both under Mr. Baile, who was the former officer, and under Mr. Hollins. I wouldn't mind having her shed her historical perspective of where we have been and the changes that have occurred, and what was good and bad. That would be something that I would like.

The Chair (Mr. Greg Sorbara): I understand what you're saying, Norm. I worry a little bit about the protocol. We—

Mr. Norman W. Sterling: We'll ask the present returning officer—

The Chair (Mr. Greg Sorbara): You were involved in hiring the present returning officer, were you not?

Mr. Norman W. Sterling: No.

The Chair (Mr. Greg Sorbara): Oh, no, I'm sorry. It was—

Interjection.

The Chair (Mr. Greg Sorbara): But there was unanimous agreement that this fellow is very well qualified, so we will want to hear from him. It's a question of timing. We're going to develop a list of people to whom a written invitation is going to go, we're going to advertise and then we're going to see. I'm not sure that Ms. Wells would feel comfortable coming before the committee on her own, and perhaps the best thing to do is to—

Mr. Norman W. Sterling: We can discuss this later when we're doing the other witnesses.

The Chair (Mr. Greg Sorbara): Yes, okay.

Mr. David Zimmer: Just following up on Norm's point of thought, it occurred to me: In the last election—and previously, but particularly the last election—I had the sense that there were tensions between local returning officers in the ridings and the—

The Chair (Mr. Greg Sorbara): The centre.

Mr. David Zimmer: —centre, and there were some real tensions there. What is the protocol if we want to hear from the local returning folks?

The Chair (Mr. Greg Sorbara): You know what, I think that there's nothing wrong with hearing from individual returning officers. It gives a sense of what's happening on the ground. I worry about too many of them wanting to come and vent, but let's look at the list and see who expresses an interest and how the process is

unfolding before we make a decision about whether or not we'll do that.

Mr. David Zimmer: Thank you.

The Chair (Mr. Greg Sorbara): Anything else? Okay. Do we have a motion to adjourn, or—okay then, the meeting is adjourned.

See you next Thursday morning and see you in a few minutes upstairs.

The committee adjourned at 0930.

CONTENTS

Thursday 16 October 2008

Organization.....

EL-3

SELECT COMMITTEE ON ELECTIONS

Chair / Président

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Howard Hampton (Kenora–Rainy River ND)

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Norman W. Sterling (Carleton–Mississippi Mills PC)

Mr. David Zimmer (Willowdale L)

Substitutions / Membres remplaçants

Mr. Peter Kormos (Welland ND)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Mr. Andrew McNaught, research officer,
Research and Information Services

EL-3



EL-3

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First Session, 39th Parliament

Official Report of Debates (Hansard)

Thursday 30 October 2008

Select Committee on Elections

Review of election legislation

Chair: Greg Sorbara
Clerk: Katch Koch

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Jeudi 30 octobre 2008

Comité spécial des élections

Révision de la législation électorale

Président : Greg Sorbara
Greffier : Katch Koch



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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON
ELECTIONS

Thursday 30 October 2008

COMITÉ SPÉCIAL DES
ÉLECTIONS

Jeudi 30 octobre 2008

The committee met at 0905 in committee room 1.

REVIEW OF ELECTION LEGISLATION

The Chair (Mr. Greg Sorbara): Good morning. To the committee members and those in the committee room: I just want to take care of a little bit of business before we get on.

As it turns out, November 3 is not a good day for the committee, the week after that we're in constituency week and then the following week is not a good day as well. The long and the short of it is that the proposal is that this committee reconvene on November 27. I hope at that time we can have a broadly based discussion amongst all the committee members as to the specific issues that they would like to see addressed as we move forward. Then on the following Thursday, we intend to hear from Greg Essensa, the new chief elections officer. That's sort of our schedule up until that point.

I have been advised by the clerk that the notice and advertisement that we agreed upon last time around has been sent to all of the registered political parties as well as all the returning officers from all the ridings across the province.

JOHN HOLLINS

The Chair (Mr. Greg Sorbara): With that, our business this morning is to hear from the former chief elections officer, John Hollins. I'd invite John to come up to the table. I think the procedure for this morning will be that John will make a presentation, probably based on information that he sent us in writing, but he's free to take that discussion wherever he likes. Then we'll move around the committee to the members for a period of questions for about 45 minutes.

With that, let me welcome John Hollins to the table. Thank you, sir, for coming. We look forward to hearing from you.

Mr. John Hollins: Thank you very much.

The Chair (Mr. Greg Sorbara): Okay, whenever you're ready.

Mr. John Hollins: Okay. I actually have a presentation I've put together. I hope it covers what you're looking for.

Mr. Chair, members, staff and members of the public, thank you very much for inviting me to appear before

your committee today. My name is John Hollins. I was the Chief Electoral Officer of the province of Ontario from January 2001 to June 2008, where I participated in two recounts and conducted two general elections, one referendum and 15 by-elections. My municipal election experience includes directing elections from 1985 to 2001 at the amalgamated city of Toronto, the former cities of North York and Toronto and having held various other responsible roles in election administration from 1972 to 1984 at the former city of Toronto. During my municipal election years, I had the privilege of participating in five recounts, 12 general elections, one referendum and numerous by-elections.

My international experience includes being senior adviser to the Central Elections Commission of Palestine for the 2005 presidential election, and international observer status for Britain's parliamentary elections, Scotland's parliamentary elections and three presidential elections in the United States of America. My Canadian experience outside of Ontario includes observer for three Canadian federal elections, provincial and municipal elections in Quebec and British Columbia, and municipal elections in Alberta and New Brunswick.

0910

I have had the honour of making presentations to committees of the House of Commons, Senate and Legislative Assembly of Ontario; the Association of Municipal Managers, Clerks and Treasurers of Ontario; the New York State Board of Elections; and the International Institute of Municipal Clerks.

I appear before you today understanding that your mission is to consider the current effectiveness of the Election Act, the Election Finances Act and the Representation Act in the preparation, administration and delivery of elections in Ontario. I encourage you to also review municipal election legislation with a view to regulating election systems, including technology standards and system guidelines; further, to identify the best source for preliminary lists of electors for both provincial and municipal elections.

I encourage you to remove the barriers to voting in Ontario while embracing the principles of access, integrity and fairness, to introduce a modern approach to election management and, most importantly, to place the elector at the centre of the process.

It is my intention to identify where the process is today, where I believe it should evolve to, and things the

committee should consider during the process. I will do this while focusing on five themes: the elector; enhanced voting opportunities; register and list; and integrity and efficiencies.

Elector-centred principles: It is important to note that electors see the role of election administrators as providing notification of impending elections, providing information on how they can exercise their franchise, and ensuring easy access while protecting the integrity of the process. While it is not the role of the government or election officials to increase voter turnout, it is within their role of responsibility to ensure that they are in no way discouraging or disenfranchising voters. This includes acknowledging voter fatigue, confusion between various jurisdictions, and personal distractions. As people become busier, they opt for more convenient methods of doing business. As a result, it is incumbent upon us as we review the electoral system to eliminate barriers and look for opportunities and efficiencies to enhance voting, and put the elector at the centre of the process.

To that means, "a vote anywhere in the electoral district" strategy should be adopted.

Currently, all electors in an electoral district choose from the same set of candidates and are qualified to receive the same ballot, yet we force voters to attend a specific location. These polling divisions were created for efficiency based on the deputy returning officer and poll clerk staffing model, while allowing us to track electors to a specific poll. In multiple polling locations, it often resulted in long lineups in one or two polls while four or five polls in the same location sat empty.

The administration of a polling division should be reviewed and the use of deputy returning officers and poll clerks should be a thing of the past. Electors should be able to attend at any polling location in their electoral district and polling locations should be designed to process electors as quickly and efficiently as possible. Modern technologies, along with the requirement to produce identification, will guarantee accurate record-keeping and maintain the integrity of the process in a more efficient polling division. Voting at any location in an electoral district has proven to be successful during advance voting in the last two provincial elections.

Second, proxy voting is a process whereby an elector legally passes their right to a ballot to another elector. This is usually done in a case where an elector is unable to cast their ballot at an advance poll location or at a polling location on election day. Proxy voting should be discontinued and modern strategies deployed to ensure every elector gets to mark their ballot.

I urge you to consider the following strategies, all of which would be a service improvement for Ontario's electors and have been used successfully in other jurisdictions.

Electors living outside their electoral district but somewhere else in Ontario should be able to attend at any returning office in the province and cast their ballot during the advance voting period. An advance voting strategy for communities of these electors should be con-

sidered. Examples of this would include pockets of displaced workers and students residing at schools outside their electoral districts. In addition, existing practices such as special ballots, which is the federal model, for armed forces personnel on active duty, foreign service workers, incarcerated electors and any other electors that are abroad should be considered. Other opportunities include encouraging shut-ins to register in advance and have election officials attend at their place of residence during the advance voting period.

Electors with disabilities should be able to attend at returning offices, and using a ballot-marking device that includes the ability to use pressure-sensitive control panels—a sip-and-puff system—should be allowed to use these systems to complete their ballot in privacy. This service level should be seen as only the beginning, with a long-term commitment to providing a ballot-marking device at every polling location in the province on Ontario in the future. All of these strategies would focus on providing the greatest accessibility to electors without jeopardizing the integrity of the process.

Enhanced voting opportunities: Over the past several elections, administrators at all levels of government have seen an increase in the number of electors opting to vote at advance polls. In keeping the elector at the centre of the process, I believe it is vital to provide as many opportunities as possible for electors to exercise their franchise.

First, electors should be able to attend at a returning office as soon as it opens to cast their ballot. A write-in ballot could be used and this would allow electors to fit voting into their busy schedules.

Second, the current community-based advance voting period should be reviewed and returning officers should be authorized to determine the number of days each location will be open. This will help service smaller communities and special interest groups.

Third, make Election Day a holiday or weekend. Election Day, for most Ontarians, starts when they get home from work. With polls closing at 9 p.m., that only gives them a three-hour voting window.

Voting statistics suggest that turnout is low up until the age of 42. Interestingly enough, most people in this demographic are married with children, so a weekday means getting home around 6 p.m. and meeting with your spouse and children to determine your evening priorities. I am sure that eating, homework and children's activities are high on the list. I would venture a guess that this is impacting our voter turnout.

Fourth, move election day to the spring, when the days are longer. This would make things safer for election staff, candidates going door to door and electors attending their polling locations after work. A further benefit may be the return of university students to their principal residences.

Fifth, the use of as many advance voting and election day polling locations as possible should be supported. Legislation should continue to guarantee access to government institutions. Election administrators are

presently on a collision course with school boards over school security issues. In Ontario, schools make up 27% of polling locations and support the voting of 45% of the electors. It would be prudent for your committee to include school boards in your discussions. The solution may be as simple as making election day a professional development day in the schools across Ontario.

Sixth, some consideration should be given to poll closing hours in view of the closing hours of the municipal and federal elections. Electors continue to complain about the lack of consistency between the electoral agencies, which leads to confusion. In this case, an elector attending an Ontario poll thinking it is open to 9:30 pm may arrive after 9 p.m. and be turned away from the poll only because, in the last election they participated in, the polls closed at 9:30.

Focusing on the register and the list—permanent register of electors: When register statistics are compared to Statistics Canada data by year of birth, it is clear that the register could be more thorough in the 18-to-24-year-old age demographic. Access to education databases for electoral purposes would allow the election administrators to place the names of new electors on the register prior to the next general election. This would provide them with the opportunity to notify each new elector on their 18th birthday regarding their rights to vote and to request permission of this elector to include them in the preliminary list of electors for the next election.

0920

Accurate addressing is vital to locating an elector on the ground and to ensure that they are assigned to the correct polling division and electoral district. Inconsistent addressing protocols can make it a challenge when assigning electors to polling divisions. Appointing a single-address authority in the province would increase electoral efficiency.

Information transfers from databases being used to keep the permanent register both accurate and current are often delayed, creating a currency gap between data delivery and the electoral event. It is important to use the period immediately prior to an election to revise the register.

Target registration in an election year should be continued. Target revision with every electoral event that takes place in Ontario is a must to ensure currency.

The list of electors is delivered to the returning officers immediately following the issue of the writs. The list is distributed to candidates and a revision process is commenced immediately. Prior to advance voting, a second list, complete with revisions, is compiled and distributed to advance voting officials, and prior to election day, a third list, the official polling list, is compiled, complete with revisions included, and advance poll voters are crossed off this list for distribution to election day officials. Consideration should be given to providing candidates and parties with an electronic copy of all three of these lists. We're all partners in the delivery of election day. Currency to the election officials, candidates and parties is imperative.

Determination of the number of electors who were entitled to vote is completed following election day. This number is the basis for candidate and party spending. As you will see, this date happens to lie after the event itself. We call it the quiet trap, in the sense that a candidate and parties are forever asking us for new numbers—"How much can I spend?"—and of course the legislation only provides us the opportunity to compile the list post-event. Consideration should be given to choosing a number that is in the public domain prior to polling day, or prior to writ day, if that's a possibility. This number could be based on the number of electors on the preliminary list of electors or population totals pre-set and determined by census numbers prior to election day.

Focusing on integrity: Integrity of the electoral process means that the electorate needs to be confident that the electoral process is managed and operated in a transparent and impartial manner with all the necessary checks and balances in place. If we are to embrace this principle, it is important that we consider the following. First, review the identification requirements to access a ballot and make them as consistent as possible for all three levels of government. Eliminate the confusion for the voter in Ontario. Consideration should be given to amending the Health Card Act to allow the health card to be used for electoral purposes.

In 2007, electors whose names appeared on the list of electors but were unable to provide documentary proof were permitted by statute to make a declaration to obtain their ballots. I would suggest that a person with the proper identification should be allowed to vouch for one other person. Historically, our legislation allows such a situation to be remedied in rural municipalities only.

The Chair (Mr. Greg Sorbara): Did you say to vote for one other person or to vouch?

Mr. John Hollins: Vouch for one other person, which would allow them to have access to a ballot based on the ID of that person.

The Chair (Mr. Greg Sorbara): Right.

Mr. John Hollins: Similarly, I would suggest that a person with the proper proof of identification and residence should be allowed to vouch for one other person on election day to have their name added to the list of electors. Also, in view of the identification requirements, electors should no longer be required to state their name and place of residence to the deputy returning officer prior to receiving a ballot.

Instead, to eliminate possible confusion at the poll, all electors should be asked if they are Canadian citizens and questioned as to whether they have voted in this election, prior to being issued a ballot. Matching qualifications to identification requirements is difficult when trying to confirm a person's citizenship; a simple question should suffice. Municipal qualifications provide for some electors in Ontario to vote in more than one municipality. Again, a simple question would clarify this issue. One other concern is the consideration of some municipalities to include non-citizens in the electoral process.

To enhance transparency, election officials should continue to record the name and address of every elector

who receives a ballot, and immediately following the election, the Chief Electoral Officer should continue to compile a province-wide list of these electors. Any instance where an elector has voted more than once should be included in the Chief Electoral Officer's report. Modern tracking methods in the polling locations should be encouraged. The compilation of all voters' names will provide a new security level. Given that parties already have access to which electors voted on election day through their scrutineers and they also have the right to inspect records post-election, a move to further transparency would be the distribution of the compiled list to the parties.

Finally, eliminate partisanship from the electoral process. Currently, returning officers cast the deciding vote in a tie. I suggest that research should be done into how other jurisdictions solve a tie prior to the committee making recommendations.

Returning officers are appointed by the Lieutenant Governor in Council. Other jurisdictions have moved to a merit-based system. Elections Canada and the provinces of British Columbia, Saskatchewan, Manitoba, Quebec, and Newfoundland and Labrador have shifted the responsibility for appointing all election officials to their respective Chief Electoral Officers. The province of Alberta is presently considering this move in view of the negative press the government received during the last provincial election.

In addition, candidates provide lists of poll workers to returning officers, and returning officers are directed by legislation to not appoint these positions until 10 days prior to election day. Waiting for these lists places the administration of election day in a difficult position for many returning officers. I recommend that returning officers encourage all candidates to provide lists to assist them with their recruiting. However, appointment to positions should be merit-based and according to the returning officer's schedule.

Consideration should be given to relaxing ballot legislation, allowing administrators to stay current with the changes in paper security and printing practices. Mills have informed us that security measures are more advanced than we have been using, and printers have advised that technology has passed us by, making our ballots both expensive and difficult to prepare in a short period of time—the 36-hour turnaround that we have to put ballots on the street for advance voting.

Focus on efficiencies: Perhaps the greatest opportunity in drafting new electoral legislation comes in the government's ability to create one agency to deliver elections to the voters for all three levels of government. Not only would greater efficiencies be found, but voter confusion on where and how to vote would be minimized.

0930

On October 14, enthusiastic Ontarians voted for the third time in as many years. They gathered up their identification and headed off to the polling location, to realize that the polling station was not the one they attended last year at the provincial election, or even the year before, at

the municipal election, and their identification, which worked fine last year and the year before, wasn't enough to secure them a ballot in this election: three different sets of rules; three different agencies conducting the electoral event. In fact, we have a fourth agency that produces the list of electors municipally in Ontario. I realize that federal elections are not within this committee's authority; however, I do encourage dialogue with your federal counterparts for the sake of Ontario's electors.

On that note, I suggest that the committee seek efficiencies within the provincial and municipal electoral frameworks. One set of rules and one agency delivering the electoral event would provide the consistency that electors are looking for. This one agency would be responsible for providing preliminary lists of electors for elections in Ontario. Thus, electors would only have to update their information once and it would be reflected on all lists.

I suggest a meeting between Elections Ontario, the Municipal Property Assessment Corporation and municipalities and/or their representatives to identify a voters' list strategy that includes an address authority, a preliminary list provider and a revision process that ensures an accurate and current list for both provincial and municipal elections.

When considering efficiencies and modernized elections, it is also incumbent upon us to consider new voting systems as well as voting and vote-counting technologies. Municipal election legislation amended in 1996 empowered election officials to explore the electoral landscape, not unlike the United States prior to 2001. I would suggest, as we now see in Florida, that these technologies need to be regulated and required to meet provincial standards prior to being used in Ontario, and that guidelines should be provided to all administrators who wish to adopt any system that differs from the basic paper-ballot hand-count system now used in provincial elections.

In summary, thank you for allowing me this opportunity to bring forward my vision of electoral priorities. As mentioned, this is a time of opportunity, a time to review all legislation and build a framework that will serve the electors of Ontario well into the future and as elections continue to evolve. An elector-based philosophy that considers one set of rules for all levels of government will not only eliminate confusion but create efficiencies for the voters of Ontario.

The Chair (Mr. Greg Sorbara): Thanks very much, John. Would you feel okay about providing the committee with a copy of your written remarks, so that they'll have them available?

Mr. John Hollins: Sure, they can have them.

The Chair (Mr. Greg Sorbara): I think we'll go around the room, starting with Norm.

Mr. Norman W. Sterling: I would prefer the questioning to go sort of by topic or whatever. If I ask a question about a particular thing and somebody else wants to jump in, it's probably better that way.

The Chair (Mr. Greg Sorbara): I think that would be fine. What I was going to propose is that we start with Peter and then go to Norm and to David, but I certainly want to permit and encourage committee members, if they have supplementary problems or want to explore an issue a little bit further, to just raise your hand and I'll recognize you and we'll do that. Is that okay with everyone?

Mr. Peter Kormos: Okay. What I want Mr. Hollins to expand on is the proposition of more than one voting day, the proposition of a holiday for a voting day or using weekends. It's interesting that a whole lot of countries use that. It would be something of a political culture shock for Ontarians and Canadians, because they're used to waiting up till whatever time at night to get the election results on election day. What do you have in mind? Help us in that regard.

Mr. John Hollins: I look at it from two perspectives. One, in other countries where I've been, they establish election day as a holiday, because they see that as all-encompassing to the electorate: "This is a very special day in our country; we want you to participate." That is the message they send out. They open the polls, they open their schools, they make it mandatory for their teachers to actually operate the polls, because those are seen as upstanding citizens within their communities, and I see that they have had great success in the participation rate. I find that to be attractive.

Mr. Peter Kormos: What about the idea of weekends, using Saturday or Sunday? Some suggest that that would accommodate any number of faiths and also expand the time for voting, and also because this last federal election put incredible pressure on the staff—not only the paid staff but the volunteers who work in the polling areas—because of the incredibly lengthy day. What about weekends?

Mr. John Hollins: I've seen—and I have to admit this actually surprised me—weekend attendance at the municipal elections in Quebec. I think they get a 76% turnout; it's incredible. It's on a Sunday, and people fit it into their schedule. I would have thought, it being more a religiously-based province than Ontario might be—I really wasn't sure what I was getting into when I went and watched and assisted. But no, it's their right. They feel proud to be able to vote, and by giving them a full day to work with, they seem to be able to work it into their schedule to participate in the electoral process.

Mr. Peter Kormos: What about two consecutive voting days?

Mr. John Hollins: I think that would be very difficult for staff, I think there would be security issues, looking at what you do with the ballot box overnight, and I'm not sure where the gains would be in that.

Mr. Norman W. Sterling: At first blush, I would be a supporter of that. If we did that with restricted hours on both days—not the same kind of hours until 9 at night, but let's say 10 to 6 on Saturday and 12 to 6 on Sunday, something like that—would it be much more expensive to do it that way? You mentioned the security risk about

the ballot box overnight, which I had not thought of, but it's a valid point. My concern with the polling hours we have now, at least in the last provincial election, is that nobody was voting after 8 o'clock at night—very, very few people.

People who run the polls are generally senior citizens and that kind of thing, and in the rural areas for them to bring back the ballot box after they've counted, after 10:30 or 11 o'clock, is very onerous. It's hard to get somebody who is way in the back 40 to bring that in. They don't bring it in until 11:30, 12 o'clock at night, and there's some danger in terms of them driving at that time after they've been sitting around all day. I have some support for a dual day. Then you do away with any kind of religious objection, because you can say that if your Sabbath is on Saturday or your Sabbath is on Sunday, you can vote on the other day.

Mr. John Hollins: I think the first question was: Would it be any more expensive? It would be more expensive. I don't know the numbers. I don't think it would be double the cost. If you're going to adjust the hours, that would certainly be a consideration. As you mentioned, it is a long day for the staff, 9 to 9:30 at night, and all the things you mentioned with regard to safety and security—I guess one you didn't mention that we always experience is the fatigue of the election officials. Of course, the most important thing of all is counting the ballots. Well, we do that when they're in their most exhausted state.

Mr. Norman W. Sterling: Another issue in that light is: Has there ever been any consideration in any other jurisdiction with regard to starting to count the advance poll before the polls close; in other words, start the advance poll counting two hours prior to the end, but nobody comes out of the room until the polls close?

Mr. John Hollins: Yes, and there are a couple of different methods. One is that they have technologies to count the ballots: They just put all the ballots through a machine and only the machine knows the numbers. At 8 o'clock they push a button and out come the numbers.

The other is to factor in counting teams based on time and sequester them at 6—two hours before they close the polls would probably be a better approach—and then they count the ballots, so that the first numbers that are reported are the advance poll numbers. I've seen that done quite often, actually.

0940

Mr. Norman W. Sterling: Where is that done?

Mr. John Hollins: I've seen it done in the United States. Actually, I've seen it done in the municipalities here, with the machines. They put them all through, and then they just press a button.

Mr. Norman W. Sterling: And you're not permitted to do that now?

Mr. John Hollins: No.

Mr. David Zimmer: If I could just pose two questions, discussing two issues: As you know, obviously, our ridings throughout the province of Ontario differ wildly in their makeup—their geographic makeup, their border

makeup, their cultural makeup and so on: rural ridings in remote Ontario, downtown city of Toronto, ridings like mine, ridings that are principally farms, ridings that are a collection of small towns, ridings that are composed of single-family homes, ridings like mine where there are huge numbers of apartments and condominium units. So the lifestyle of the voters in each of those ridings varies widely.

What are your thoughts on what I'll refer to as riding-by-riding solutions to problems that crop up in the whole range, that is, from what goes on on voting day in these very different ridings across Ontario and in all of the events leading up to voting day: getting the voters lists organized and the maps, and all of that sort of stuff? Do you think there is any room for some discretion, within the context of the rules of the Election Act, on a riding-by-riding basis, to propose local solutions, so that the end result is, it makes it easier for the voters in those very disparate ridings to cast their votes?

Mr. John Hollins: In the existing—

Mr. David Zimmer: If you allowed for that riding-by-riding solution, what would be the process to delegate that discretion to the ROs and the DROs?

Mr. John Hollins: In the legislation today, no, there's not. Essentially, the voters are equal across the province. Let me share with you some—of course, we sit, election administrators, around the table, and we talk about some bizarre things that we either want to do or would like to try to do. There was a time when I really believed that every electoral district in the province of Ontario should vote and decide on which way they get to exercise their franchise. I used to believe strongly in that, and I think that emanated from the fact that we let the municipalities do that. As we see now—we've seen them vote by Internet, by telephone, by mail; we make some go to polling booths. I don't believe that anymore. I think that what I'm seeing evolve in the electoral communities around the world is that it's not about the electoral district; it's about the person. You can't take this group of people, regardless of boundaries, and say, "Let's treat them all the same." I would envision that the process in the future would be multi-channel voting, that the electoral administrator would offer many ways for you—

Mr. David Zimmer: Sorry, I didn't catch that word. Multi—

Mr. John Hollins: Multi-channel voting, just like your television set. So you have a menu: 10 ways of voting—which one appeals to you?—and each one has its own built-in security. If you're going to vote in this manner, then I'm going to require a signature, and when you submit the ballot, a signature, so I can identify—or there's going to be a double mail-out system. Or, in the case of, as I mentioned today, why not knock on the doors of shut-ins? People are doing that in other communities; however, you have to pre-register with somebody and something, so that we can maintain the integrity.

So in the future, I think, it's not the community we'll treat somewhat uniquely; it will be the individuals.

Mr. David Zimmer: So are you comfortable, then, with some mechanism that would in fact provide some discretion for individual ridings to, within a broader context, fine-tune how they conduct the vote, if you will?

Mr. John Hollins: I am, but I think that's only halfway there. If you say, "Take X riding" and say, "They can vote by mail," then someone else is going to start saying, "Why not us?" I think if you say, "Here are your 10 options, and all Ontarians have the same options. You can vote by mail, but here's the process. You can vote by going to your poll; you can vote by us knocking on your door," I believe that that is a better system in the long run.

Mr. David Zimmer: Okay, and then some other examples of local nuance, if you will. This idea that every riding has to have 350 folks working in the riding may be fine for riding A in downtown Toronto but not appropriate for a rural riding. Do you see cutting some slack for the local ridings, how they organize that?

Mr. John Hollins: Most definitely.

Mr. David Zimmer: Okay.

Mr. John Hollins: I think the 350 number was predicated on the fact that in the 1800s, we needed two people to treat so many people, as a service level, within a certain time and count the ballots. I think that number should be discarded. I think we now should build an efficient model around every polling location that we're going to use. In some cases, it might be 2,000 people in there, but you have a staff of 15 people servicing them efficiently.

Mr. David Zimmer: My next-to-last question is: The relationship during the writ process and on election day between the CEO and the DROs and the ROs—we heard, and don't in any way take this personally or anything, a lot of concerns about local ridings trying to sort out issues in which they needed input or decisions or direction from head office, as it were. It's my sense that in some quarters, there was a feeling that the relationship between the head office, if you will, and the riding was not fluid enough to enable the local riding to effectively manage the process. Did you sense any problems or issues there and, if so, what solutions might you offer?

Mr. John Hollins: I think it's more the nature of the beast. If you look at the historical rotation, you can say, "Yes, I see what he's saying." When Elections Ontario, as an entity, gets a large turnover of returning officers, which happened to us in 1999 and again in this last election, what happens is you have people for the very first time conducting an election. In this case, I think we had 85 of 107 who had never done this before.

What happens is, you only have so much time to spend with people. You have lots of call centres and lots of support things, but on the key decisions, you tend to spend more time with the people who—I don't want to say "squeaky wheels" because the system now is in such a way that you're identifying where the strengths and weaknesses are throughout the 28-day period, and you tend to trust people with experience and give them a little bit more room to manoeuvre.

The Chair (Mr. Greg Sorbara): David, I'm now just going to, in the interests of fairness, go back to Peter.

Mr. Peter Kormos: Mr. Zimmer's comments prompt my questions. I agree with you about the need for uniformity—from municipal through provincial through federal—and also stability. In other words, adopt a model, adopt a style, and for Pete's sake, stick with it. But that's why I'm interested in proxy voting. Is your concern about the integrity aspect of it?

Mr. John Hollins: It's twofold. We have a right to a ballot. What we've done is, because we don't want to increase our service level, we've taken the right away and handed you a proxy form. So someone who is—how do I put this properly? If you were in Afghanistan, you voted on a ballot for the federal election. The turnout there is probably very good. In our election, we send you an application for a proxy form and we don't get a turnout. I don't know if that's the intention of the way we design our system. I think we're past that now. I think we want to open up these channels and try to include everybody, no different than the person who's disabled going and they swear on a friend or a returning officer to mark the ballot for them. There are technologies that allow them to actually mark ballots in this day and age.

Mr. Peter Kormos: Most of the proxies that I've seen, down where I come from, are from people who are physically unable to leave their homes or apartments.

Mr. John Hollins: If we knock on the door and grant them a ballot, will they be happier?

0950

Mr. Peter Kormos: That's a response; that's an alternative. That's why I'm asking you: Is there a problem with the integrity of the proxy system or are you talking about the ability of a person to personally mark their ballot?

Mr. John Hollins: I think it's twofold. Proxies are the things we watch the closest during an event. I'd be absolutely lying to you if I said I didn't have people phone and complain that people were knocking on doors and trying to convince them to grant them their proxies, and I'd be lying if I said I didn't sit candidates down and read them the riot act. That's the nature of the business.

Mr. Peter Kormos: Okay, well—

Mr. Norman W. Sterling: Just a second. Do you have numbers as to how many proxies there are per riding or per constituency?

Mr. John Hollins: You know what? I don't have them with me. That would be a better question of—

Mr. Norman W. Sterling: But you have those numbers?

Mr. John Hollins: Yes, most definitely. That's something we track and watch.

Mr. Peter Kormos: And are there patterns, are there communities or parts of the province where proxies are more frequently used, perhaps more part of the political voting culture, than they are in other communities?

Mr. John Hollins: If I answered the question, people would take it back to an area of the province, and I don't think it would be fair. But, yes, you're right.

Mr. Peter Kormos: All right, so don't identify the area of the province for the moment, but what motivates that? What prompts that?

Mr. John Hollins: What prompts them to do what they do?

Mr. Peter Kormos: Yes, why are there certain ridings in which they're more common than others?

Mr. John Hollins: I think it's that candidates believe that they have to win, and winning is getting an edge. Someone plants in their brain that these people will not be leaving their house to vote, so the way to get them to vote is to convince them to give you a proxy. Then that turns into, you knock on my door and you want a proxy, I'm not going to say no to you, so I give you the proxy, you vote, I show up at the poll and now people are asking me why I gave a proxy when I wanted to vote, and I say, "I couldn't say no to the person at the door."

Mr. Peter Kormos: Is there any auditing of that? Is there any testing of that to determine—

Mr. John Hollins: No. We don't record it. It's anecdotal. I don't know that we'd want to record it, actually, other than when we would have to press charges on someone. But, to date, we've always alleviated that just by discussion.

The Chair (Mr. Greg Sorbara): We're going to get on to another topic now, but with the indulgence of the committee I just wanted to put a couple of follow-up questions.

I take it that part of what is driving your view of areas of reform is efficiency, integrity and creating a model of access that encourages more people and allows more people to come out to vote. On the issue of Saturday or Sunday or a holiday, many of us think, "Well, then, more people will vote and the result will be a stronger one."

I'm just wondering, John, whether there has been some good, solid research done amongst a segment of the population, and particularly that segment that did not vote, to determine why it is that they didn't vote. Was it because of the day? Was it because of work hours? Was it because of a holiday? Have we got any current research to say that these things impede people from coming out to the polls?

Mr. John Hollins: Just to share with you, with the polling, we poll everything. I'm sure you do as well. It's important to know that: what people are thinking. But elections are a funny thing, and as the pollsters say, "We'll phone people, and by our poll out there, they'll tell us 90% voted today, even though you got a 50% turnout, because there's that inner guilt of people, that they really don't want people to know they're not supporting their society."

That aside, yes, there are statistics and they would be available through Elections Ontario, where they have itemized exactly the reasons people have given. Some of them hold water; some of them are just brush-off comments. But you'll know that when you read that. I think that's something that you would want to read. They've got some very good statistics, even suggesting things like there's no appetite for Internet voting, voting by tele-

phone or voting by mail right now. Just little things like that, trying to keep current on what people are thinking out there.

The Chair (Mr. Greg Sorbara): I just perhaps want to put on the record my concern about making voting day a public holiday, although I think I can understand the reasoning for that, given that I was the person who first announced that there was going to be a new public holiday in Ontario in February—Family Day, as it's now called.

My concern with it would be that the culture here is that when there is a holiday, families in particular look at opportunities to get away for a while. The May 24 weekend, more people are away from their ridings than are there, at least in certain parts of the province. Nevertheless, I think the idea of examining whether we have the right day is a good one for committee.

Mr. Norman W. Sterling: On that point, I can remember talking about this issue in Premier Davis's cabinet about November 11. Our determination, or the determination—I can't remember whether it was a holiday prior to that time, but we would get greater participation in Remembrance Day ceremonies if it wasn't a holiday because the kids would all come from school and so the kids would be celebrating in the schools or marking the day. That was an important part.

Can I ask a question about consistency, particularly in terms of federal-provincial, because in most of the ridings—I wish it was all the ridings—we have the same boundaries or constituencies. As you know, in the north we have 11 and the federal government has 10 seats. But outside of that, the federal election which we've just gone through—they have some real advantages that I see that we could adopt here in the province of Ontario. For instance, in terms of scrutineers going into the polls, the returning officer or the clerk—I'm not sure which one—actually fills out a sheet for each scrutineer and tells them who's voted and who hasn't. So the scrutineer walks in; they say, "Here it is." They do it a half-hour on the half-hour. It's very well organized and so it makes it much easier for the political organizations.

The other one that I'm attracted to is the mobile polls. They go from nursing home or a long-term-care centre to a long-term-care centre. It must be extremely boring to sit in a long-term-care home from—is it 9:30 the polls open?

Mr. John Hollins: Nine.

Mr. Norman W. Sterling: Nine to 9:30 for 12 and a half hours and all of the voting is done by 9:30 a.m. rather than 9:30 p.m. It seems to me a tremendous waste of resources with regard to the whole thing and a very, very boring day for a number of people, and if you can get everybody who's going to vote done in an hour, why not do it that way?

I guess my question to you is, if we were to adopt many of the practices that they have at the federal level and make our process more consistent with theirs, are there any that you object to at the federal level?

Mr. John Hollins: I quite like some of the things that they do in their legislation. I quite like exactly what

you're discussing now: the mobile poll. I like it for administrative efficiency. It scares the heck out of me in law. If I go to the nursing home, go around and you all vote and Peter's in the washroom and I miss Peter, so every other person in Ontario got 12 hours to vote and Peter got an hour but was indisposed and didn't get to vote, have I now disenfranchised Peter? As a process—

Mr. Norman W. Sterling: No. Basically if you did the other thing that you're suggesting, and that is, have a rotating person whom you could call back in nursing home A where they voted from 9 to 10:30 in the morning, and Peter or whoever was in the washroom who didn't get a chance to vote and now wants to vote, you send somebody out to have him vote later on in the day, but to cover off that remote chance that somebody would be disenfranchised.

The Chair (Mr. Greg Sorbara): Peter, and then I'm going to start another line of questioning with—

Mr. Norman W. Sterling: I guess my question was: What don't you like?

Mr. John Hollins: What I don't like is that they don't have the authority to do things in Ontario that we do. If you sit with the CEO of Elections Canada and he says, "John, I wish I had the right to get into the schools that you have, but I can't because my government cannot guarantee that." It's like the municipalities: They get into their community centres; it's more difficult for us to get in. So the voter is constantly getting—you go to the church, you go to the school, you go to the community centre, and I think Peter nailed it. Every time I vote, I should go to the same place. Then I'm conditioned and it's easy; it's comfortable. As soon as you break that comfort stream, people are less likely to participate, and I think we experience that.

1000

The Chair (Mr. Greg Sorbara): Peter, you had a supplementary on that?

Mr. Peter Kormos: Just on the nursing homes, the extended-care wings of hospitals: Why wouldn't there be advance polls? Advance polls really create more than one day for any voter to vote in, assuming that that voter can get to the physical location, right? So why, in those specific areas, like a hospital—because one of the complaints we get down where I come from is that people who are hospitalized after the advance polls have been conducted—they're in the hospital, heart surgery, what have you, and then can't get out to vote. So it's very, very frustrating for them, at that point. Why wouldn't there be advance polls in those types of locations, giving those people more than one opportunity to vote?

Mr. John Hollins: Typically, why we haven't put them in nursing homes etc. is because there are so few and we know we'll capture them all on election day. Under the current legislation, we have to open on election day, by law. So if we're going to open on election day, why would we go in on Saturday and collect 10 votes, and then come back on Thursday and collect the other 10 votes?

The idea has been that the advance would be so that people would be able to find a way to get to where we

are; on election day, we would do the outreach program. If we were to—

Mr. Peter Kormos: If we choose hospitals, though, as an example, as compared to a seniors' residence or a nursing home.

Mr. John Hollins: It's the same concept. Hospitals are changing; people are flowing around on us.

The Chair (Mr. Greg Sorbara): I take it that what you were saying, John, in your opening remarks was that if there were a broader number of ways beyond proxy, so that people who by circumstances are away from their riding, whether overseas in the military or confined to a hospital, could cast a ballot by way of a mail-in ballot or a travelling system of some form or other—

Mr. John Hollins: Yes. Actually, Norm brought it up. It's the federal model: a special balloting system. That's what they use, and it's very effective.

The Chair (Mr. Greg Sorbara): Okay. I'm going to give the lead now to David Zimmer. I do, again with the committee's indulgence, hope I get an opportunity to put a question or two on the Election Finances Act, and particularly on moving the role of issuing receipts to Elections Ontario rather than to political parties.

Mr. Peter Kormos: Chair, if I may, on something akin to a point of order: Mr. Johnston prepared a list of queries that we aren't even close to having time today to put to Mr. Hollins. It's a very impressive list of questions, quite frankly, and important ones. How are we going to accommodate those questions?

Interjections.

The Chair (Mr. Greg Sorbara): Well, the clerk advises me that one solution would be for the list to be provided to Mr. Hollins, and he could get back to us either in writing—I don't think that we have an opportunity to extend the day today. Committee members can work from that list of questions, but with the agreement of the committee, we'll provide Mr. Hollins with those questions, and perhaps he can get back to the committee by written submission.

Mr. David Zimmer: In fact, I'd be prepared to take it a step further. I see that there are 32 questions here, and I must say, each of the questions is substantive and has triggered a chain of thoughts. I would like to see the committee formally ask Mr. Hollins to respond to those 32 questions in writing. I think that would really trigger some thinking on our part, if we got the answers to those questions.

The Chair (Mr. Greg Sorbara): I don't know how we formally do that, but—

Mr. Peter Kormos: Agreed.

The Chair (Mr. Greg Sorbara): The committee has agreed to that? We just formally did it, then. So we'll provide the witness with those questions and look forward to his written responses.

David?

Mr. David Zimmer: That takes care of a whole lot of questions that I had from the list, so let me just zero in on this: Back to my earlier question about some discretion, riding by riding, to get the vote out and so on, can you

give me some specific examples where you think discretion could be exercised by the local riding on how it conducts various aspects of the vote, if you will?

Mr. John Hollins: As I mentioned earlier, there are two models. The one we've seen in the municipalities, where the municipality could—or, in this case, you could take a riding. We could hold a referendum in every riding in the province of Ontario and say, "There are 10 different ways of voting. Choose the one that your particular riding wants to use." Then the majority would rule and they would vote in that manner. It's not the one that I would prefer. The one that I'd prefer would be the individual: "In this election, we offer this assortment of opportunities for you to exercise your franchise. Here's how you would do it: If you want to vote by mail, we need you now to fill out an application and provide your ID. We need your signature. We need this, this and this. And here's the process for voting. You've now signed up. After the next election, we will engage you once more to see if you still want to stay on the vote-by-mail system," or the vote-by-telephone system, or it could be the vote-by-Internet system, or the I'm-going-to-show-up-at-my-poll system. You could even say, "Which poll do you want to show up at?" if you want to keep the polling division concept—

Mr. David Zimmer: What about discretion, for instance, in how they use the polling clerks and the staff who manage the election on a riding-by-riding basis, if I have 350 people carved in stone for every riding, regardless of the culture of that riding?

Mr. John Hollins: You mean the polling divisions—the 350?

Mr. David Zimmer: Yes, stuff like that.

Mr. John Hollins: Actually, I was just in the elections in New Brunswick in May. What would happen is, the voter would walk in with their card or a piece of ID, and they would scan it, because they'd have a computer sitting there; there'd be four people sitting just like this. Scan; you're on the list; take you off; sign this. Behind me, there are 25 people who issue ballots. You have to give them that security to get access to your ballot. So we've captured you in real time very quickly. We've handed you off to the person who's going to issue the ballot. That person would vote, they'd all go back through, hand it off to a person and put it in a machine, and they'd have the count. Instead of taking 30 seconds, this was like 10 seconds.

Mr. David Zimmer: What about something like advance polls—different times and different ways of conducting advance polls? It seems to me that conducting advance polls in a riding like Timmins, Gilles Bisson's riding up in the far north—how you do advance polls there and how you do advance polls in my riding of Willowdale. Here's the challenge in a place like Willowdale: I've got these huge numbers of apartments and condominiums, a lot of young people, everybody's working, and they work all over the city. They work in Mississauga, in Scarborough, in the north, and they typically vote at the end of the day. They've driven an hour and a half in traffic; they get home at 7, 7:30, and then—

Mr. Norman W. Sterling: They can't call on their cellphones.

Mr. David Zimmer: They can't call on their cellphones, and then they have to rush out and vote. The reality is, those kinds of folks are often just too exhausted to get out to vote. There are other challenges in the rural ridings. So why wouldn't we say to the local folks, "You know the culture of your riding best. How should we best manage the issue of advance polls?" Do you think that kind of discretion could be given locally?

Mr. John Hollins: You could do the advance polls with the same menu of channels. The advance voting could be done on the telephone. Our ballot is pretty simple.

The Chair (Mr. Greg Sorbara): Peter, and then Norm.

Mr. Peter Kormos: From our perspective, these are all tools. You're right; these are tools that campaigns use. Obviously, we're seeing it in the States now in the presidential campaign, the effort to get people out voting in advance polls because you've secured the vote—you talk about capturing voters in terms of an election campaign—and you reduce the numbers of polling-the-vote that you have to do on election day. That's why Norm's question about the access that outside scrutineers have to the voting records is very important, because campaign teams are responsible for a significant part of the voter turnout. We know that because we have checkmarks that we can't even poll on election day. At 9:15 p.m., we're still calling them and doing everything short of physical threats to get them to go out and vote.

Interjection.

Mr. Peter Kormos: In all of these things, I think it's important to keep in mind to make them friendly and effective to the political campaigns themselves. I don't think that we should discount the role of political campaigns in getting the vote out.

1010

Mr. John Hollins: In the New Brunswick model that we experienced, I believe they had two opportunities. They would print a list, because they had a printer in the location as well. They could print a list of all the people who had voted, and I think they did it every hour or every 45 minutes. I think it was actually every hour until the rush hour, and then I think they went every half-hour in their printing and then the inside scrutineers were grabbing them right away. Apparently, the other thing they were doing was that they could also package it and send it. So if you're the outside scrutineer, every hour we could shoot you an e-mail: "These people have voted." Once you've captured it in the technology, it's just the movement of the data, essentially, and it moves very quickly.

The Chair (Mr. Greg Sorbara): So you are saying that Elections Ontario could, with the necessary resources, have available the technology so that on a half-hour basis, electronically managed and printed out so-called bingo sheets of people who have voted could be provided to inside scrutineers? That technology has never

been in an Ontario polling place, I don't think. Is that right?

Mr. John Hollins: Two questions: The first thing—I think, because I'm not Elections Ontario, he should give it to you every couple of minutes. I'm sure he can't do that. Has it been done in Ontario? I haven't seen it done in Ontario. I've seen it done in New Brunswick, as I just mentioned, and I saw a different model of it done in Quebec. In Quebec, what they did was they granted the parties access to the voters' list. They could go through a portal and look at the voters' list. What they were doing is updating it in real time. They put it through the Internet and would cross the name off.

There are issues around that, I believe. I'd have to look at it more carefully about what's out there in that domain. The Internet scares the heck out of me from a privacy perspective. There would have to be certain guarantees to move that.

The Chair (Mr. Greg Sorbara): With the committee's indulgence, can I ask a question about the election-financing part of this whole business?

Mr. Peter Kormos: Sure, Chair.

The Chair (Mr. Greg Sorbara): Then I think we'll have an opportunity to go around once again.

You know, John, that one of the statutory burdens on political parties and riding associations is to manage the political donation process. A central part of the management of that process is the issuing of receipts for political donations. It's a system that requires political parties and riding associations to keep very accurate lists and report those to Elections Ontario, and for Elections Ontario to keep very accurate lists and report to the public on an ongoing basis and annually about political donations.

Is there any wisdom in the notion, given that basically three bodies—the central party, the riding association and Elections Ontario—need to maintain accurate lists and report accurate lists of donations that, under a revised consolidated statute, the responsibility for the receipting of political donations be put on the shoulders of Elections Ontario and that receipting be done electronically by Elections Ontario as soon as and almost instantly as a donation is received by a political party or a riding association?

Mr. John Hollins: At first blush, it sounds—we're seeing it done. You see these charities where you're going to donate to someone who's doing a walk—it's definitely those technologies. I don't see any problem at that level. Where I see an issue would be the trouble-shooting. Not everybody does it correctly and not everything you receive is—it has to be investigated more. I believe it can be done. I think you're going to have to shape how it gets done and on what level. If someone's going to start handling cheques and someone's got to decipher the reading and someone's got to chase people down, I don't think Elections Ontario wants to be in that business. It ties them too close to the partisan—

The Chair (Mr. Greg Sorbara): Let me be very clear. Funds would continue to be received by a political party, and having received those funds, it is required by a

statute or a regulation to receive those funds, bank those funds and send that information to Elections Ontario electronically, at which point Elections Ontario would issue the receipt to the donor unless Elections Ontario's computer said that that donor is already at a maximum, in which case the program would advise the political party or the riding association that X amount of that donation had to be returned to the donor because it—I'm thinking, in other words, of the actual process of issuing the receipt, not the receipt of the donation itself.

Mr. John Hollins: Perfect. Yes, that would be even easier. I was a little nervous on the receiving of the money and redistributing. Yes, I don't know why that wouldn't be—it's all just technologies.

The Chair (Mr. Greg Sorbara): Right, okay. Now, just a final round of questioning. Perhaps I would start with Norm, then Peter and then David.

Mr. Norman W. Sterling: In terms of the vouching, I had understood earlier that you wanted to do away with the vouching altogether, and I heard today that you wanted to expand it into the urban ridings; is that correct?

Mr. John Hollins: I was very uncomfortable with vouching because vouching comes in on a definition of what a rural riding is. None of our ridings meet that definition; it made me very uncomfortable.

The second part that made me very uncomfortable was the fact that we're treating electors in Ontario differently. The north had one set of rules; the south had a different set of rules. In looking at that, had I brought that in with the identification rules for this election, I would have been treating some Ontarians differently than others. What I'm purporting is, I don't—vouching, to me, is a great point of accessing the system. However, we want to tie it to ID. Where we see it the most is in spouses—one has the ID and one doesn't. Then, all of a sudden—we had the affidavit, and that worked fine, but it made people uncomfortable.

I have to tell you, what we experienced in this election was that our deputy returning officers now need training in conflict resolution, because people—a small percentage—were not particularly pleased with ID, so that made it very uncomfortable for the people conducting the poll. If we can keep the integrity of the system and make it as easy as possible for a person to administer, I believe that's the right thing to do, and that's where I believe vouching would be good. If I and my spouse go in and she has her ID and I don't, using her ID, she can vouch for me and it's recorded against her ID; in other words, shifting the responsibility to her to say that yes, I'm legitimate. But still ask me the questions: Am I a Canadian citizen and have I voted before? Other cultures that are entering into our society don't know the non-citizen role; they clearly don't know that. We see that when they file their income tax and say, "Put my name on the list." That's why I believe it's important to ask that question.

Why did we annoy everybody last election by saying, "What is your name?" and "What is your address?" Because the act clearly told our people to.

Mr. Norman W. Sterling: Do you have any statistics on vouching?

Mr. John Hollins: I have none, because we didn't use it in the last election.

Mr. Norman W. Sterling: You couldn't vouch in the rural ridings in the last election?

Mr. John Hollins: No, you could not.

The Chair (Mr. Greg Sorbara): There are no rural ridings under the act. Peter?

Mr. Peter Kormos: Which is part and parcel of the whole issue of enumeration. All of us, again, in our campaigns—our workers come back, frustrated, encountering voters who aren't on the list. It's easy if it's three weeks before the election; it's much more difficult on election day. I come from small-town Ontario, which has a relatively stable population. There aren't huge apartment building complexes. We don't have the transient nature that, for instance, neighbourhoods in Toronto do. How do you address the accuracy of voters' lists—which goes to citizenship and qualifications as well, doesn't it?

Mr. John Hollins: I have to be honest. I don't know why the government of the day decided that we'd do a permanent register. I don't know that. So what you're going to hear from me is the logic that I think they probably or would have considered at the time. The logic from the administrative perspective was, when we were doing the door-knocking, we weren't getting people answering doors anymore—they just weren't doing it. I'll give you statistics—

The Chair (Mr. Greg Sorbara): We have the same experience as candidates.

Mr. John Hollins: This is something that we've studied to death. For instance, when we knocked on doors in 1975, we got 86% of the people answering the doors and giving us their names. By 1995, we were down to 80%, and it was declining. So in 1999, I believe the legislation was brought in to be more inclusive, bearing in mind that enumeration would give us only 80% of the names on the list, and you couldn't sign up on election day. It was a closed list and people were yelling at the administrators, "You're disenfranchising. You've got to find me when I'm at home. It's no good telling me that you knocked on my door the last seven days in a row." They don't care about that.

The new system that was adopted was essentially inclusive. At Elections Ontario—and Elections Canada does the same thing—we mail out to all the people who are out there voting, but also, at all the addresses we have where we don't have electors, we mail out to them as well, to try to make it as inclusive as possible, encourage people to participate, get them to the poll, because there, they can sign up.

1020

There were issues, and I think you've heard them over the years. The one that really closed the gap for administrators this time was ID. The enumeration system was great for ID, because we showed up at your door. We knew you, we knew you were there, and usually, if I knocked on your door and put you on the list, on election day I'd be giving you the ballot. Most returning officers tried to make sure you were also with your own poll

clerk. They were different times. It was single-income earners in most families. It was easy to get polling officials. All of those things are very difficult now.

I appreciate your comments on the rural and the urban: They are very different. Candidates in the rural area provide us with long lists of workers. In the urban centres, I'll tell you, they're not very long lists. Holding us to 10 days is a precarious position to put that poor returning officer in.

People often say, "Which system do you believe is better?" I have to tell you: In the 1970s I think enumeration was the system. Today, I don't think it is; I clearly don't think it is, and I see it happen. I was talking to the CEO of Nova Scotia in Ottawa on election day, the 14th. They're still enumerating, and she's shaking her head. It's just very, very difficult—and she doesn't have some of the issues we have in some of our urban centres.

Mr. Peter Kormos: Would you conduct more intensive campaigns between elections, encouraging voters to, in effect, register, encouraging people who come of age to ensure that they're on voters' lists?

Mr. John Hollins: Most definitely, but we need the tools or we need the empowerment, and that's what I asked earlier. Give us the students; give us the school board databases so we can do outreach to them. We know—because we compare the Statistics Canada data by year of birth to our register—the strengths and weaknesses of the register and we know that the gap is in the 18- to 24-year-olds. How do we get them on? It's like we've created a systemic issue ourselves by not getting access to those people. The driver's licence works a bit, but it's just not enough. All it does is, now we have to mail out to them and find the driver's licence people, and we get less than a 20% return on that.

The Chair (Mr. Greg Sorbara): Just to clarify that, the objective is the same for all of us—that is, improving the quality and the accuracy of the voters' list. You're saying that an Ontario address authority is part of the solution; greater coordination between a variety of agencies is part of the solution; greater empowerment of Elections Ontario to access data that is not now available to them is part of the solution; and a mandate to have a professional system of constant purging and updating of lists is part of the solution?

Mr. John Hollins: Those are exactly the three points that will make it a much better—it's a good list, but they will make it a better list. I know Elections Ontario, in the report—I was desperate: Even we would do it. I don't think it belongs there. In a perfect world, MPAC would be the address authority, Elections Ontario would be the list authority, and revision would be mandatory municipally and provincially.

Mr. Norman W. Sterling: One of the issues you raised earlier sort of twiggled my mind, and I just wanted to ask you before we had to close the meeting—making the appointment of the returning officer a non-political thing and not by order in council: What about the rest of the officials? Do you want to make that non-political as well? Basically, as a candidate, I'd love you to make it

non-political, because quite frankly, every name I give you is a worker that I lose.

The Chair (Mr. Greg Sorbara): Let's face it: None of us can deliver all of those requirements to provide those lists.

Mr. Norman W. Sterling: But I don't think you can run an election without us. You need us as a resource, because people phone our offices and, particularly if you're an incumbent, they say to one of my constituency office staff, "I want to work in the election." All we do is pass that name along, but the tradition has been that the candidates who are involved have some influence over this. We really don't have a heck of a lot of influence, because you're usually scratching for people.

The Chair (Mr. Greg Sorbara): John?

Mr. John Hollins: I don't disagree at all. The focal point of the election is the candidates, and they bring us names.

I don't believe that the returning officer position in today's society should be partisan, essentially; I think it should be merit-based, but I also think, and I should have mentioned this, that the election clerk—it's the assistant returning officer—both of those positions, I believe, should be through application and chosen. The assistant returning officer should be afforded the same empowerment under the act to leave their place of work and do the public good. I know we have that for the returning officer; at this point, we don't have it for that assistant returning officer position.

The Chair (Mr. Greg Sorbara): David?

Mr. David Zimmer: Here's one last question, an observation from the last election. I would go out; it didn't matter where—condos, houses, apartments or wherever. I would deal with senior citizens, middle-aged folks, young people, and I often got this comment. It was not age-related, and it has to do with technology. I might get a senior who is really up on technology or a young person really up on technology. I'd say, "Get out and vote," all that sort of stuff, and they'd say, "Well, that's a real drag to get out and vote." They would say, "You know, Mr. Zimmer, if I can do the most complicated financial and banking transactions on my computer, and those transactions are secure, I'm moving money around, paying bills and buying things on eBay and all that with all of the security features, why can't I just sit down at my desk when I'm ready to vote on voting day, or whatever it is, and vote electronically?" I often had people say to me, "If I could vote electronically, I would, but I'm not going to truck off to wherever to scratch my vote."

What do you say to those people who express that concern and that frustration: "If I can do the most complicated financial transactions, with security, why can't I cast my vote?"

The Chair (Mr. Greg Sorbara): A quick answer, because the bells are calling us up there.

Mr. John Hollins: There are two issues that you're going to have to look at. This committee will have to look into these.

One is remote voting, and how you feel about that. That means that person's not guaranteed the security of your polling booth. You're allowing them to vote from somewhere else, or someone else to exercise their franchise or bully the franchise.

The second part is technologies. I appreciate everything people say about banks. Now go talk to the presidents of banks and ask them what their error margins are. How many people do they have dedicated to investigating the monies that are being taken from them, stolen from them, during these transactions? That's what the person on the street never knows, because they don't share it.

We've had those discussions with these people. We know there are error margins. We've looked into this. We had a whole vote-by-Internet process set up; we're using Revenue Canada to go through the epass system to lock it down and give us total integrity, because we could not trust banking systems. They told us that. As you go through this stuff, ask the questions and bring the people in. They will tell you what their business is, because what you see upfront is always the hard easy sell: "We are the best product in the world" till you take it home. I think

that's what you're charged with here. Be sure you're comfortable as well. I've seen them all. I've seen systems that I thought were great and—

Mr. David Zimmer: Just for the record, I like to go to the polling station and put my mark with the pencil.

The Chair (Mr. Greg Sorbara): Yes, it's an X, not a check.

John, on behalf of the committee, thanks very much for your presentation and for being so forthright in your answers. I hope that if the committee wants to hear from you again you'll be able to make yourself available. You're carrying a lot of—

Mr. John Hollins: I'm at your disposal. This is a very big cause for me; always has been.

Mr. David Zimmer: Chair, just a process question: On the 32 questions that Mr. Hollins is going to reply to, when might we expect a reply, or should we set a—

The Chair (Mr. Greg Sorbara): At his leisure, as the clerk says. We're not going to put any time frame, but I know he's very much involved in this stuff. He'll be in contact with us if there's any delay.

We'll adjourn the committee for now.

The committee adjourned at 1029.

CONTENTS

Thursday 30 October 2008

Review of election legislation	EL-9
Mr. John Hollins	EL-9

SELECT COMMITTEE ON ELECTIONS

Chair / Président

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Howard Hampton (Kenora–Rainy River ND)

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EL-4



EL-4

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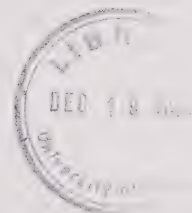
Jeudi 4 décembre 2008

Select Committee on Elections

Review of election legislation

Comité spécial des élections

Révision de la législation électorale



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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON
ELECTIONSCOMITÉ SPÉCIAL DES
ÉLECTIONS

Thursday 4 December 2008

Jeudi 4 décembre 2008

The committee met at 0902 in committee room 1.

REVIEW OF ELECTION LEGISLATION

The Chair (Mr. Greg Sorbara): Good morning, everyone. My understanding is that our colleague Norm Sterling is on his way.

Mr. David Zimmer: Yes, I saw him.

The Chair (Mr. Greg Sorbara): Good. I thought I might just begin, first of all, by noting that, as I said to Greg Essensa earlier, not only are we going to have riveting testimony inside the room but outside the room as well, and I'm asking everyone, including those who are listening to this committee, just to bear with us. There's a little construction going on in the backyard of the building.

The second point I wanted to make, just in response to some discussions that we were having last week: I'm hoping to be able to provide committee members probably early in January, Peter, kind of the thrust of where the government imagines that this process might go.

Mr. Peter Kormos: We talked last week about a short list of issues, an agenda, if you will, a menu. I wondered if Mr. Johnston has—not yet. Okay.

The Chair (Mr. Greg Sorbara): Okay. So we'll anticipate that as soon as he can get that done and then we'll be back to you early in January.

Mr. Peter Kormos: Because even the short list I'd appreciate as soon as possible so that caucus mates can get it, so that they can comment on it.

The Chair (Mr. Greg Sorbara): Okay, and so we'll look forward to that.

Mr. Peter Kormos: When they have some time on their hands.

The Chair (Mr. Greg Sorbara): I guess so—but not prorogation, you're saying.

OFFICE OF THE CHIEF
ELECTORAL OFFICER

The Chair (Mr. Greg Sorbara): With that, I would, on behalf of the committee, like to welcome Ontario's Chief Electoral Officer, Greg Essensa. He is joined by Loren Wells, the Deputy Chief Electoral Officer and—the name isn't up here so, Greg—oh, here we go. The clerk is always ready. He's got a fresh piece of paper—

Jonathan Batty, the director, election finances and general counsel.

My understanding, Mr. Essensa, is that you're going to make a presentation. Take as much time as you need with that and committee members will have questions after that.

Mr. Greg Essensa: Super. Good morning, Mr. Chair, members of the committee, members of the public and staff. My name is Greg Essensa. I am the Chief Electoral Officer of Ontario. Thank you very much for inviting me and providing me the opportunity to make representation before you today. I'm pleased to be a part of the committee's work in conducting a comprehensive review of our election laws.

Ontario electors are fortunate to have the opportunity for their elected representatives to consider how to improve the functioning of the fundamental aspects of the representative democracy that they enjoy. This was last done in 1968 when the Select Committee on Election Laws was established. Needless to say, the Ontario of 2008 is not the same as the Ontario of 1968.

The complexity of Ontario's social and cultural environment today has a dramatically different impact on the lives of electors than the environment experienced by their predecessors 40 years ago. In particular, the characteristics of a typical Ontario elector and the ways that Ontarians engage the political process is also changing. To keep up, electoral processes and laws also need to be able to change.

The Election Act, the Election Finances Act and the Representation Act, 2005, have been amended incrementally over the last 40 years. The fact that our current election laws have been amended on so many occasions makes it clear that our election laws need to be flexible and adaptive to changing circumstances.

It has been said that, "Election laws are currently written for the ballot box, not the elector." I will be suggesting to you today that we need to fundamentally alter this approach and put the elector front and centre in any discussion on electoral reform.

Throughout my presentation this morning, my fundamental theme and recommendation is that Elections Ontario and the provincial returning officers need to have the flexibility to prepare, administer and deliver elections in a way that is responsive to the needs of citizens, candidates and their local communities.

Why do we need this flexibility? There are a variety of factors that have an impact on how elections are run in

Ontario that the committee should consider when contemplating amendments to the current election legislation. At this point, I'd like to take a moment to address several of these factors.

One factor is the geographic diversity and size of the province. Currently, the Election Act is premised on the idea that there is only one way to serve electors in each of Ontario's 107 electoral districts. That effectively says one size should fit all. I do not subscribe to this theory. Residents of northern Ontario and rural communities have needs that are quite different than residents of urban areas. Each of these different communities should receive services tailored to their unique needs.

0910

As an example, in the last general election, about 10% of electors, roughly 450,000 people, voted in the 13 days of advance polling. But rural returning officers reported that they found it extremely difficult to recruit and maintain staff to keep polls open, and some days those polls were very poorly attended. Restrictions in the legislation that prevented them from determining the appropriate number of days and the appropriate locations that would provide the greatest opportunity for all electors in their communities to exercise their democratic rights are symbolic of some of the inflexibility that currently resides in some parts of the statutes.

Technology is another factor that this committee should consider in their deliberations. As technology becomes more prevalent in our daily lives, electors expect that Elections Ontario will incorporate these new tools, new methodologies and technologies into our service delivery. The growing public expectation is problematic because, currently, as CEO I am only permitted to test alternative voting and vote-counting methods, like tabulating machines which are used in many municipalities across Ontario, through by-elections.

Technological change has not only impacted the public's expectation for enhanced voting improvements, technology has also changed the manner in which candidates and parties conduct their campaigns. Election advertising, for example, has evolved rapidly over the last few years in ways that the Election Finances Act never foresaw. Candidates are now using automated telephone messaging, e-mail and social networking sites like Facebook, MySpace and YouTube to advertise and campaign. Currently, the Election Finances Act does not adequately address any of these emerging campaign trends, which ultimately leads to less transparency in the electoral process.

An additional factor for consideration is the service delivery model currently mandated through the legislation and the aging workforce of election day personnel. It is becoming increasingly challenging for Elections Ontario and the returning officers to find, hire, train and retain the over 89,000 election worker positions needed to be filled in the 29-day writ period.

The difficulty in finding election workers is a common problem for election administrators at all levels, especially as our population ages. As an example, during our

most recent federal election, with respect to election workers in Ontario, the average age of people performing this work has risen from 46 to 55 years of age between the federal elections of 2004 and 2008. As the age of the average election worker rises, accommodations may need to be made in terms of the work hours and the duties staff are expected to perform. The current service delivery model needs to be examined to provide greater flexibility to deliver the same level of service with fewer resources required.

Availability of voting locations is also a factor that should be taken into consideration. It is becoming much harder for Elections Ontario and the returning officers to find appropriate voting locations. In the last provincial election, there were over 9,000 voting locations. Many of our traditional voting locations are becoming more difficult to secure, schools in particular. Due to security concerns, however, many school boards are increasingly resistant to having polling places in their schools, despite the requirement in the Election Act that schools be made available to Elections Ontario.

To alleviate these difficulties, consideration could be given to mandating that election day become one of the professional development days in all schools across Ontario. Another potential solution may be to consider moving election day to a time period when schools are not in session—on weekends or very late into the spring.

The final factor that should be taken into consideration is Elections Ontario's access and equity requirements. Elections Ontario has a responsibility to make the democratic process as accessible as possible. Approximately 10% to 15% of Ontarians have some form of disability. Many older citizens also experience difficulty in getting to their voting locations and casting their ballots.

Elections Ontario requires the flexibility to serve these electors through the use of alternative voting processes, like special ballots, mobile polls and new technologies. Flexibility in the Election Act would also help Elections Ontario in meeting the requirements of the Accessibility for Ontarians with Disabilities Act and its new regulations.

With these factors and challenges in mind, I have several specific recommendations for the committee's consideration.

In preparing these recommendations, I have been guided by the following three democratic principles that support my specific recommendations. Our election laws need to ensure that:

(1) Electors and participants in the electoral process are fully able to exercise their democratic electoral rights in a fair and non-biased manner;

(2) Electors and participants in the electoral process are served in a modern, responsive and efficient manner; and

(3) Election officials are accountable and the process we administer is transparent and impartial.

We must always strike a balance between these principles. It is a balance between accessibility, integrity and feasibility. While every elector who wishes to vote

should have a way of doing so, the integrity and scrutiny of the voting process must not be compromised, and the process should not be prohibitively expensive to administer.

I'd like to spend the balance of my time today outlining specific recommendations for the committee's consideration. I have grouped these recommendations into three categories: those that I feel require immediate attention, changes that could be made in the shorter or mid-to-long term, and subjects that require further study and examination but are integral to improving the electoral process.

I recommend that the following matters be addressed immediately in the Election Act:

(1) That the legislation be amended to allow for special ballot processes and mobile polls.

We need to ensure that the election process is as accessible as possible, so that all electors have the opportunity to cast their ballots. It is currently very difficult for students, electors with disabilities, individuals in nursing homes and hospitals, and military and personnel on assignment to vote. The only process open to these particular people who cannot vote on one of our advance vote days or election day is the proxy process, which is complex, cumbersome and becoming increasingly rarely used.

To make the election as accessible as possible, a special ballot process and mobile polls should be adopted. We are the only province in Canada that does not have a special ballot process. Mobile polls would be used in conjunction with a special ballot to ensure all electors can access the democratic process. The mobile polls would also be more efficient and economical than the current process, as we would require fewer election workers since we would not need to keep a poll in a nursing home open for the entire 12-hour voting period. Mobile polls are used in federal elections and in almost all other provinces, with the exception of Prince Edward Island and Newfoundland and Labrador. Proxies are no longer used in federal elections or anywhere else in Canada for provincial elections. The use of special ballots and mobile polls are much better alternatives.

Fundamentally, the proxy process violates the presumed secrecy of the ballot by having one elector tell another how he or she wishes to vote without any guarantee that the proxy will, in fact, go to the polls and vote in the manner requested.

Anecdotally, it is alleged that proxies may be subject to abuse. Whether or not this is the case, electors would be better served by replacing this method of voting with ones that let them cast their own ballots even if they are unable to go to the polls.

(2) That flexibility in the legislation be enacted to provide greater discretion over advance polling days.

The Chief Electoral Officer should have the discretion to alter the days, hours and placement of advance polls in conjunction with local returning officers to develop a model that best fits the local needs.

For area advance polls in a fixed-date election, the Election Act requires that the same people must work in

a fixed voting location for 10 days straight for as many as 10 hours a day. This poses a significant staffing challenge and the expense may not be justified by the turnout. By creating greater flexibility, there will be the opportunity to maximize resources and, at the same time, the development of an advance voting model that is tailored to the needs of the local electorate.

(3) That flexibility in the new legislation be considered to allow for new voting and vote-counting processes and technologies.

We need to examine our current voting processes and see if they can be simplified so that voting is easier and more convenient for electors. One way to make voting easier is to amend the Election Act to permit the use of alternative voting methods and technologies in general elections and not just by-elections. These technologies would serve electors with disabilities and others who encounter barriers to the voting process. It would allow people who before had to rely on the assistance of a friend or a voting place official to actually cast their ballot on their own.

Another way that the voting process can be simplified is in designing a more modern service delivery model, which examines how polls are divided among polling staff. Currently, while several polls may be located in one voting location, the law requires that an elector can only be checked and issued a ballot by the two election workers assigned to that elector's polling place. Those ballots can only be sorted and counted by those two elections workers at the end of the night on polling day.

Change is needed to allow greater flexibility to use different staffing models and more modern vote-counting technologies. Apart from reducing waiting times, this would allow voting locations to operate more efficiently and be staffed by much fewer election workers.

0920

(4) That the selection of election officials be in fact turned over to the CEO.

Electors need to be confident that the election officials responsible for administering the election are independent and impartial. As such, the Election Act should be amended to replace the current order-in-council appointment process for returning officers. Returning officers should be appointed by the Chief Electoral Officer using a merit-based, non-partisan selection process.

Many jurisdictions, including Elections Canada, have a CEO-run selection process, and those that currently do not are moving in this direction. A CEO-run selection process would help foster public confidence, as well as that of all candidates and parties, that returning officers are now election professionals and completely impartial in the performance of their tasks. It would also help Elections Ontario to recruit, train and manage appropriate individuals in a timely fashion.

In addition, the Elections Act should be changed so that returning officers do not have to wait for political parties to supply them with workers. Having to wait until 10 days before election day, in some instances, to receive names from political parties places an unnecessary

burden on candidates, parties and returning officers to, in effect, scramble in an attempt to find and train sufficient polling day staff prior to election day.

(5) That any recommended legislative enhancements include the unification of the current legislation.

The Election Act and the Election Finances Act should be combined into one statute so as to better coordinate the powers, reporting and budgeting of the CEO. The current framework requires two budgeting and reporting mechanisms, making for inefficient use of resources.

The provisions governing the nomination, registration and endorsement of candidates are also not consistent. Nominations close far in advance of election day, but registration is technically permitted up to the day before election day. The current provisions confuse candidates and make the administration of the elections unduly complicated.

The following matters I am recommending need to be addressed immediately in the Election Finances Act: that the legislation be amended to provide for the use of debit cards and other electronic transfers of monies as contributions to candidates and parties.

We live in an electronic age where people can shop, pay their bills and send money from anywhere in the world electronically. Our election legislation has not kept pace with these changes in technology. The law needs to be amended to allow parties, candidates and constituency associations the ability to accept contributions using modern banking practices. The use of debit cards and online donations, i.e., PayPal, would allow for the modernization of our election finance reforms which in turn could lead to greater transparencies and efficiencies for all stakeholders involved, whether they be candidates, parties, CFOs, and for Elections Ontario, in administering those election finance requirements.

The fact that election campaigns in Ontario cannot fundraise using modern technology is a source of frustration for contributors and political entities alike. All Ontarians, whether they be candidates, contributors, administrators or simply electors, should be served by a legislative framework that allows for the transparencies and efficiencies that many modern banking practices could provide.

(6) That the calculation of spending limits be revised.

When it comes to the calculation of spending limits, in some respects, the current process does things backwards. As it stands now, election spending limits are linked to the elector count that is released after an election. In our last election, this calculation was not released until well after the event. As a result, candidates and parties are faced with the difficulty of not being certain what they can spend on their actual campaigns.

Spending limits need to be set before an election or right at the outset of the election period. This would benefit party chief financial officers, auditors and Elections Ontario by eliminating the risk that campaigns may unknowingly go over their spending limits.

(7) That enhanced compliance measures be included in any new statute.

There is no sense in having election campaign finance rules if there is no way to ensure compliance with those particular rules. There are a number of parties, candidates and constituency associations who are late in reporting their financial activities; some are habitual. After our last election, more than 30% of our filings were late—some significantly late—requiring many attempts to secure the appropriate filings.

The CEO needs a greater range of administrative measures—for example, late filing penalties, fines or reduction in subsidies—to encourage and obtain compliance through means other than prosecution. Elections Canada has these powers so that minor matters are not prosecuted. Late filers may be asked to agree to compliance agreements to avoid prosecution. Broader powers could be put to good use to encourage compliance, to instil public confidence in the election finances system and to avoid the costs of prosecution.

The following are some longer-term changes that I would recommend that the committee give consideration to. Number one: a fundamental review of all election statutes to combine electoral laws for consistency of practice. After almost every election, administrators from all levels hear a common response from the electorate: “Why do we do this process differently at the ‘blank’ elections?” Whether it be the requirement for identification—we ask for one set of documents while the federal government asks for another—the hours of operation—in municipal elections, polls close at 9; in federal elections, they close at 10—or whether it be voting locations that are utilized, down to the manner in which we train and manage our election day workers, the inconsistencies of practice between municipal, provincial and federal elections should be examined to derive a more consistent and efficient model. We must remember that there is still only one elector and one taxpayer, and where we can achieve greater consistencies of practices, the opportunity for greater efficiencies becomes a greater likelihood.

My next longer-term recommendation is that voting anywhere in an electoral district be permitted. Should the Election Act still require electoral districts to be subdivided into polling divisions? Currently, polling divisions are typically somewhere around 300 electors. In today’s world, it would be more convenient for electors if they were permitted to vote at any polling place in their electoral district on election day, not just the one for their polling division. This could be facilitated if the Chief Electoral Officer was given the flexibility and resources to use contemporary technologies in the voting process to record and track voting on polling day. This information then could be supplied to candidates and parties. Through the continued use of identification and modernized staffing models, the integrity of the process would be maintained while, at the same time, greatly reducing the number of election day workers required. This process has been successfully utilized during advance voting in the last two provincial elections.

My next recommendation is to consider examining voting anywhere in Ontario. The Election Act should be

amended to allow electors to vote for their local candidate or party at any returning office or advance poll in Ontario, in a controlled manner, prior to election day. This change would only be possible if the law permitted the Chief Electoral Officer to adopt innovative ballot-and vote-counting processes. Voting anywhere in Ontario could be used in conjunction with the special ballot process, to provide post-secondary students and others away from their homes during an election the opportunity to cast their ballots in a supervised setting. By allowing electors to exercise their rights at any returning office or advance poll, we could eliminate current barriers that presently exist and allow the legislative framework to consider the needs of the electorate first.

My next recommendation concerns the use of schools during polling day. Polling day should become a province-wide professional development day for school boards or should be changed to a weekend, holiday or some other time when students are not in schools. Changing polling day would address many parents' and school boards' security concerns and make it easier to find schools willing to serve as voting locations. It could also prove helpful in recruiting and training of election workers if teachers were also available to work in the polls.

My next recommendation is to consider vouching. Vouching, at present, is only permitted in polling divisions which the Chief Electoral Officer designates as being rural. As no polling divisions have been designated as rural, it has not been used recently in Ontario elections. While the need for vouching is questionable since the registration process and the quality of the voters list have improved in recent years, an elector who is on the list, without identification, can complete a declaration to obtain a ballot. I also support the position of the previous CEO that the committee should give consideration to permit an elector who has valid identification to vouch for one other person on election day, to have his or her name added to the list of electors. Many returning officers have reported that contentious situations between election day workers and electors could have been alleviated had this type of vouching provision been available during the last election.

Redistribution: The Representation Act, 2005, provides that the electoral map has 107 electoral districts, but it does not provide how the map will be adjusted in the future. The process and timetable for the future redistribution of provincial electoral districts needs to be created. Every other jurisdiction in Canada has one. Redistribution affects not only election planning and staffing, but requires extensive efforts for parties to manage their constituency associations and their finances before an election.

0930

The next recommendation is that consideration be given to establishing an address authority within Ontario. Within Ontario, one of the challenges we have is that there is no one entity, no one body, charged with being a central address authority in Ontario. This creates signifi-

cant challenges for an electoral registration process. Without accurate addressing information, it becomes almost impossible in certain parts of the province to adequately ensure that we have in fact placed the elector at the appropriate location for them to exercise their democratic right. By establishing a single address authority in Ontario, inconsistent naming conventions of land parcels would be reduced and a more accurate permanent register of electors could be maintained. This in turn creates less confusion for electors, as electors are assigned to the correct polling divisions; additionally, voters lists for parties and candidates provide more accurate information. Further, not only does Elections Ontario require this to improve its permanent register of electors, but there are other parts of the government which also would benefit from a centralized address authority within Ontario.

As the committee completes its comprehensive review of the election laws, I believe that there are some longer areas of study that should be contemplated. I would recommend that the committee give some consideration to charging a task force with examining these areas in greater detail.

First is the political finance review and reform. I am recommending that the establishment of an independent and non-partisan body is needed to review a number of political finance reform questions. For instance:

—Do the current election advertising controls and blackout periods make sense in an era of e-mail and the Internet?

—Do the existing contribution and spending limit provisions serve the purpose that they were intended to?

—As other jurisdictions have reviewed how candidates and parties are subsidized, does Ontario need to review how these provisions operate?

—Can the annual and campaign reporting requirements be reviewed to consider, for example, if it is desirable, from the standpoint of those who file returns and those who review returns, to allow joint campaigns and annual filings?

Because these subjects are inextricably linked and involve policy questions and large public expenditures, these are questions that require careful and detailed consideration by an independent panel to provide options for consideration by either this committee or the Legislative Assembly.

I'm also recommending that there be an examination of what I am terming the rationalization of service delivery. I recommend that a comprehensive review of federal, provincial and municipal elections be conducted to determine whether there are services or functions that can be combined in order to reduce overlap and duplication. There are opportunities for consolidation and enhancements to the service delivery model for elections in Canada, and more particularly Ontario. For example, does it make sense that there are three separate voters lists to be created and maintained by three separate entities? While there is co-operation between electoral agencies, integrated service delivery needs to be carefully

explored to see if efficiencies can actually be realized. At the very least, in Ontario we should be examining the opportunity for greater collaboration and efficiencies of operations between provincial and municipal election laws and processes.

In conclusion, if Elections Ontario is to be able to modernize to meet the significant challenges that will shape electoral processes in Ontario in the coming decade, it must be governed by flexible legislative directions that will allow it to accommodate the necessary change. If Elections Ontario is to preserve the integrity of the electoral process, it must be allowed to implement rules and practices that leverage the value of new technologies and processes and fundamentally place the elector at the front of the legislative line.

I would like to thank the committee for the opportunity to appear before it today. My recommendations include immediate and longer-term matters, as well as areas for further study. I will also be preparing and making available early in the new year a follow-up submission with a more detailed review of the current election laws and specific recommendations.

The most important recommendation I make is that Elections Ontario and provincial returning officers need to have the ability and flexibility to run elections in a way that is responsive to the needs of citizens and their local communities. This has worked well in the past. Our election laws need to move away from a narrow one-size-fits-all approach to a more adaptive model that is better able to meet the needs of our local communities. We can learn how electoral administration can be improved from innovations that have been adopted in other jurisdictions, as well as from experience in our own communities.

The committee's comprehensive review will help to modernize the election laws in Ontario and ensure that our democratic process remains among the best in the world.

Thank you for this opportunity, and I welcome your questions.

The Chair (Mr. Greg Sorbara): Thanks very much, sir. I thought we might just start with an allocation of about 15 minutes each for each party. But let's make it flexible, and if somebody has a supplementary from somewhere else, we'll do it that way. Is that okay?

Mr. Norman W. Sterling: Let's make it as flexible as we can.

The Chair (Mr. Greg Sorbara): Okay, let's start with you, Norm.

Mr. Norman W. Sterling: The first question I have for you is, in view of your comments with regard to having some consistency between the various elections and jurisdictions that we're dealing with, what areas would you not adopt with regard to what our federal electoral laws are at the present time—in the election process? Let's not go into the financing part at this time.

Mr. David Zimmer: Can you speak just a little louder?

Mr. Norman W. Sterling: I just want to know from the presenter what areas he would not agree with in terms

of the federal process. I know you're in favour of mobile polls like we have at the federal level etc., sir. What I'm trying to do is—if this committee said, "We're going to adopt holus-bolus what the federal government does during the election period," what would you not do or what enhancements to the federal rules would you recommend to this committee?

Mr. Greg Essensa: First, I would recommend that we not adopt the current identification rules that are in place at the federal level. In Ontario, our interpretation of the interpretation rules pertaining to identification are far more broad and provide a greater service to the electorate. During the most recent federal election, there was—their rules and interpretations are far more narrow than what we experience, and I would not recommend that we adopt those.

As I've already stated, I would certainly recommend that we adopt the special balloting process and the mobile poll process that was recently used at the federal election. I believe it provides greater availability for the electorate to exercise their democratic rights and provides a more efficient and effective use of the resources available to election administrators.

Mr. Norman W. Sterling: So that's it. Perhaps you could expand upon that and write to the committee if you have afterthoughts about—

Mr. Greg Essensa: In my submission in January, I can certainly examine that and provide you much greater detail on very specific provisions that we would not recommend, and those which we would adopt.

The Chair (Mr. Greg Sorbara): Norm, if I might, could I ask for an expansion on that? We've had some discussion here and privately on this whole issue of identification: whether identification is a sine qua non of voting; in other words, you have to be a citizen, 18 years of age and with two pieces of photo ID—or whether that is permissive to help identify. What are the rules at the federal level? What are our rules? You ran the city of Toronto's system; what are the rules there? Where should we be landing on identification, and what strict liability is there to present identification? So—federal, provincial, municipal—where should we be landing in the end?

Mr. Greg Essensa: That is one of the inconsistencies that I alluded in my speaking notes. There are currently, to the best of my understanding, three different models of what constitutes identification.

The municipalities were the first level of government to actually introduce identification rules, and there was a broad swath; each municipal clerk was provided a great degree of flexibility in determining what were acceptable identification rules. So you even see at the municipal level some inconsistencies amongst local clerks as to what is acceptable from one municipality to another.

In Ontario, the Chief Electoral Officer established a finite list of identification rules to ensure both identification and residency in a combination, whether it be through a driver's licence, through one piece of identification that identified their residency, another that identified who they were—i.e., a utility bill was an acceptable form.

At the federal level, it was much more restrictive. There were fewer pieces of identification that were in fact allowed to be utilized, but again, they were clear to try and communicate that as effectively as possible. However, the inconsistencies to the electorate raise issues on election day. Electors who had just most recently voted at the provincial level coming in with pieces of identification that were acceptable for that particular election were now being turned away because, in fact, they did not have the acceptable pieces of identification at the federal level.

0940

The Chair (Mr. Greg Sorbara): But I guess, Greg, what I'm trying to get to is—I should know this in Ontario and I acknowledge my ignorance—is identification necessary in Ontario? Is it necessary at the federal level? If, for example, my Uncle Leo, who lives in my basement, is the poll clerk and I come to vote on that day—does Uncle Leo have to say, “Gerry, I’ve got to see two pieces of identification before I can give you a ballot?” Or is it in aid of ensuring that the voter is who he or she says he is?

Mr. Greg Essensa: Currently, the legislation indicates that if the gentleman’s name is on the list, he is not required to provide identification. He could simply provide a declaration that “I am Greg Essensa; I am on the list”—sign their declaration, and they would be issued a ballot. It is not required.

What we have seen, though, is the move at all three levels of government to instill legislative statutes that allow for the request of identification by the returning officers and the polling clerks.

The Chair (Mr. Greg Sorbara): Again, I’m trying to figure out whether one has to request identification from a voter who the poll clerks knows is Peter Kormos, who has lived in that house forever and is coming to vote for himself on the election day. In other words, does one have to show identification to obtain a ballot or does one have to show identification to satisfy a poll clerk that that person is who he or she says he is?

Mr. Greg Essensa: Yes. In simple terms, yes.

The Chair (Mr. Greg Sorbara): Peter, on this?

Mr. Peter Kormos: Yes; that’s, in my view, very closely connected to the matter of who staffs polling stations, where people are allowed to vote and, I presume, the rationale for having different clerks at different areas in that voting venue. I come from small-town Ontario—smaller-town Ontario—and people know each other. You can vote anywhere in the riding. There’s far less control because, presumably, the people from that neighbourhood are going to be the people who staff those polling stations.

We have talked about the business of identification for the purpose of maintaining integrity. We’ve also talked about the business of expanding access to a ballot box, be it within the same polling area, within the riding or within the province. The two are related, aren’t they, in terms of ensuring that the people are who they say they are?

Mr. Greg Essensa: No question. There is always that balancing between integrity and accessibility, but you are quite right.

If we were to have moved to any of the models that expanded the opportunity for voting, whether it be throughout the electoral district or throughout the particular province as a whole, it would be my position and recommendation that we continue to ask for identification, that that be a fundamental requirement to instill and uphold the integrity of the electoral process.

The Chair (Mr. Greg Sorbara): But Greg, I don’t think you answered my question; at least, I didn’t hear an answer. I think you just said, “Yes,” and I thought I said, “Is it one or the other?” In order to vote in Ontario, does one need to present identification, notwithstanding that the voter is known to the person who is delivering the ballot to the voter?

Mr. Greg Essensa: It depends if the elector is on the voters list.

The Chair (Mr. Greg Sorbara): Got it. I’m on the voters list; the poll clerk knows me; he’s my Uncle Leo and he lives in my basement. Do I have to show Uncle Leo a piece of identification if I’m on the list, or can I just walk in and have Uncle Leo say, “Oh, Gerry, you’re here to vote; good. Here’s your ballot?”

Mr. Greg Essensa: Currently, if you do not show identification, you would be required to swear an oath that you are in fact Greg Sorbara and that you are entitled to vote, and then you would be issued a ballot. But you cannot exercise that right by just coming in and saying, “Oh, hi, Uncle Leo. I don’t have any ID,” and allowing that individual to vouch for you. That is not currently allowed.

The Chair (Mr. Greg Sorbara): Okay. I just want to know, on the subject of identification, because it’s taking up—are there any more questions? If not, I’ll go back to Norm. Peter?

Mr. Peter Kormos: But I hope that that particular issue is on the short list of items for consideration.

The Chair (Mr. Greg Sorbara): David?

Mr. David Zimmer: Just a follow-up on this identification thing: If somebody doesn’t have ID, then there’s just a simple box or something to check saying, “I’m a Canadian citizen.” They check it off yes or no and sign their signature, with a statement underneath reminding them that if that’s a false statement, they’ll be in trouble and there are going to be some penalties. So you just accept that then? “Are you a Canadian citizen?” “Yes.” “Sign here, but remember, you’ll get in trouble, you’ll be charged, if you falsify this,” and just let it go at that?

Mr. Greg Essensa: Yes, Mr. Zimmer, that’s currently in the declaration that would be signed at the poll by that elector. He or she would in fact be declaring that they are entitled to be an elector in Ontario; that they are 18 years of age; that they are a Canadian citizen and that they understand that it is an offence to swear a false declaration and vote.

Mr. David Zimmer: What’s the history of this? How many times has it actually been followed up on? Has

somebody been checked out if they're falsifying? How does that happen?

Mr. Greg Essensa: That would only happen after an election, if there was an actual challenge. If a scrutineer wanted to challenge the validity of that particular elector's qualifications, the scrutineer could exercise their right to challenge that elector's qualifications. That would be noted by the polling official on our polling list.

Mr. David Zimmer: So the reality is, there's not a lot of chance of somebody getting caught on something like that, absent a scrutineer zeroing in on it.

Mr. Greg Essensa: Those are limited, unless there is a court application or a recount process that happens after the election. But yes, you are quite correct that it's very limited where those are investigated.

Mr. David Zimmer: It's quite meaningless, then?

The Chair (Mr. Greg Sorbara): Unless it's challenged by a scrutineer.

Are there any other comments on this question of identification? If not, I'll turn it back to Norm.

Mr. Norman W. Sterling: I have one. So vouching would only come into effect if the person was not on—because if you can do a declaration, vouching would only come into effect if you were not on the list.

Mr. Greg Essensa: If you're not on the list and you had no identification; correct.

Mr. Norman W. Sterling: The alternate technologies you talk about in terms of voting processes: Are you talking about alternate methods of marking your ballot or are you talking about alternate technologies with regard to voters lists and having the teller-style election rather than individual polls? What are you talking about there? And, what are the cost implications of doing this?

Mr. Greg Essensa: I'm suggesting that both be considered as options. There is an opportunity in Ontario. Municipalities in Ontario currently reside with literally millions of dollars of vote-counting equipment sitting on their shelves that is unutilized during our provincial elections. The ability to leverage the investment that they have made to provide for a more effective and efficient vote-counting process could be utilized, should the legislation be reviewed. But I am also suggesting that the current service delivery model that we currently employ allow for modernization as well in the poll; that a new staffing model that does not become reliant upon the traditional poll clerk and DRO set-up be considered as well and given some consideration by the committee to alleviate some of the situations that many of us experience during every election. If you go to a community centre where we have 10 or 12 polls probably being staffed by 24, 25 or 26 people, invariably you come at a time when the lineup is only at one or two polls, and the rest of the individuals don't have anyone in front of them. There are more modernized staffing models which would allow us to service that same electorate, providing the same level of integrity and transparency, and provide the results in the same fashion, but I could staff that with a model that may only require eight, nine or 10 resources.

So I'm suggesting that the modernization allow for both of those abilities to be changed.

Mr. Norman W. Sterling: Let somebody else ask—

The Chair (Mr. Greg Sorbara): A follow-up on those issues—David? Just on this point of other technologies, do you have anything?

Mr. David Zimmer: No, I'm fine.
0950

The Chair (Mr. Greg Sorbara): Greg, you talked about vote-counting machines. Are you suggesting in that that we use other forms of marking a ballot, other than X on a piece of paper?

Mr. Greg Essensa: I am also suggesting, yes, that the committee give some consideration as well that there are abilities, through modern technologies, to allow for other forms of voting besides marking X on a ballot.

I would suggest, though, that the committee needs to consider, in making that deliberation, their comfort level and that of the Legislative Assembly with moving to what I would term an unsupervised voting model, whether it be by mail, by telephone, or whether it be eventually by Internet: the ability for someone to actually exercise their democratic rights in a manner that is unsupervised, versus our current methodology, where someone has to actually come to a poll.

Mr. David Zimmer: Chair, just one question.

The Chair (Mr. Greg Sorbara): David, and then Peter.

Mr. David Zimmer: So in this voting technology—I mean, taking a bigger view of it, it seems to me a couple of principles. One, technology changes faster and in ways that we sitting here—it's difficult to envisage. There are hundreds and hundreds of jurisdictions around the world that are dealing with this problem and thinking about new technologies.

So what about some sort of system where the CEO, your office, once a year or whatever would be a reasonable time, comes back to the government—and you've reflected on all of the innovative technology in different parts of the world, different voting jurisdictions—and presents, on an annual basis or before an election, some new thoughts or current thinking on voting technologies, and do that on a regular basis so we're always up to date and have the best advice?

Mr. Greg Essensa: I would certainly not be opposed to that type of scenario. I certainly concur, based on my experience. I have looked at a number of different technologies that are currently resident, and you are quite correct, Mr. Zimmer, that in fact technologies do evolve very rapidly. We need to look no further than just south of the border to see the rapidly emerging technologies that our US counterparts have been experiencing in their elections.

Mr. Norman W. Sterling: Let's look to Florida.

Mr. Greg Essensa: With the exception of—you're quite correct.

The Chair (Mr. Greg Sorbara): Order.

Mr. Norman W. Sterling: I said, "Let's look to Florida."

The Chair (Mr. Greg Sorbara): Did you say "I'm on my way to Florida"?

Mr. Norman W. Sterling: I wish I was.

The Chair (Mr. Greg Sorbara): Oh, look to Florida. Okay.

Mr. David Zimmer: Just on this point, on some regular way to get back to the Legislature on the latest thinking on innovative technology in the voting process.

Mr. Greg Essensa: I would not be opposed to that whatsoever, Mr. Zimmer. In fact, I think that might be a healthy way to look at a more incremental, methodical way of introducing technologies.

It would be my position, as I've stated during my representation and presentation to you today, that we must always ensure that the basic principles of democracy be maintained, no matter what evolution of the electoral system we put in place. Those basic principles of integrity, accessibility and feasibility must be inherent in that.

Mr. David Zimmer: Thank you.

The Chair (Mr. Greg Sorbara): Peter?

Mr. Peter Kormos: I fear that the strongest advocates for introducing perceived contemporary technology into these things are the people who manufacture that technology. They use the public sector primarily as R&D. You'll recall the great enamourment with fingerprint identification, which collapsed in short order because it was nowhere near the level that was required.

In terms of technology, voting is one thing—in other words, casting a ballot—but you're talking about, for instance, allowing a person to vote anywhere in the riding or even anywhere in the province. If you're talking about allowing them to do that on election day itself, then you need technology to ensure that that name is struck off the voters list at the polling station.

I can understand the argument for saying that if I'm in Willowdale, I should be able to go to an advance poll in Willowdale. I presume one of the reasons why there's a gap between the advance polls and the actual returning officer's location is to allow people time to upgrade the voters list.

Are you contemplating doing this on voting day and relying upon technology to ensure that that name is excluded from the local list?

Mr. Greg Essensa: No, I'm not suggesting that whatsoever.

Mr. Peter Kormos: Okay, good.

Mr. Greg Essensa: I am suggesting that voting anywhere in the province could be accommodated through modern technological advances, but that would only be provided during advance-vote periods or by the returning officer prior to election day. There would be a defined period of time where that would be available.

Mr. Peter Kormos: So you're not talking about replacing hard—for instance, the stroke of the pencil or pen across the name of the voter on a piece of paper at the polling station as documentation of that person having voted. You're not suggesting that that be—look, come on. I go to the LCBO and they decline every one of

my credit cards because the system's down. The big banks—

The Chair (Mr. Greg Sorbara): Is that still happening? I didn't know. I thought we had dealt with that problem.

Mr. Peter Kormos: —you pay cash. But you understand what I'm saying. The banking industry, we're told, would tell us, "Hell, you ain't seen nothing because the real problems are the ones, of course, that we don't publicize." So my Luddite tendencies generate great fear about the loss of integrity—the experience here at Queen's Park, Chair, over the course of the last 10 years—

The Chair (Mr. Greg Sorbara): The experience—I'm sorry?

Mr. Peter Kormos: At Queen's Park and in government, over efforts to introduce new technology.

Again, other than casting the ballot, where are you seeing it? Are you seeing the technology in recording people coming in and voting?

Mr. Greg Essensa: We have experimented certainly at the advanced poll level by implementing technology to provide allowing a vote anywhere within an electoral district, where we invoked technology through the use of laptops and computers, where we have struck the names off and have recorded the information that way.

Currently, I don't believe it would make economic or feasible sense over the 20,000-plus polling districts that we have in Ontario in fact put technology into every one of those. There is not an economic model that we've come across that would actually work for that. We do envision it, though, during some of the advance voting and those opportunities that would in fact provide for greater efficiencies, greater economies of scale. We could provide, then, a better electoral product to the electors if technology were invoked during those time frames.

The Chair (Mr. Greg Sorbara): Okay. Thanks, Greg.

Peter, I'm going to move to you now on another topic, if you wish. Then after that, I will move to David, and then we'll go around if there's more time.

Mr. Peter Kormos: First of all, I hope we can get the matter of alternative methods of making political contributions; to wit, credit cards and so on—I hope we can get that on our short list as well.

The Chair (Mr. Greg Sorbara): Yes.

Mr. Peter Kormos: I think that's a very important one.

The issue of election workers aging—in political parties, there are issues about who works elections. All three parties, insofar as I'm aware, tend to have fewer and fewer people as eager to work. They're older. It changes the whole way electoral politics is happening. How do you address the issue of you not having a pool of experienced staff to call upon every four years or at any point in between those four years where a Premier decides to surrender his or her mandate?

Mr. Greg Essensa: Mr. Kormos, this is why I am suggesting that we really need to examine the service

delivery model that currently is in place. The service delivery model that we have currently in Ontario I do not believe is sustainable over the long term.

As you've just alluded to, the aging workforce will continue to be a challenge for us. There are service delivery models that we've developed at Elections Ontario and that we've seen in other jurisdictions that, as I earlier articulated, greatly reduce the number of election day workers we would be required to utilize. It's a far more economical, efficient process, while at the same time it maintains the integrity of the process, maintains the same service delivery that we currently give to candidates and parties as far as providing them information on names of who has voted and when. I believe that if the legislative shackles were somewhat removed from the legislation, we'd have the ability to move in this more efficient, more effective matter, and we'd be able to address those concerns on the aging workforce and the challenge of election day workers.

Mr. Peter Kormos: The other issue I suppose, then—this has been discussed—is enumerations of voters lists and—

Mr. Norman W. Sterling: Can I ask about the returning officers? What is the compensation for a returning officer, let's say over the four-year election cycle? And you talk about averages here, because I think it varies with—sometimes, does it vary with the size of the numbers now?

Mr. Greg Essensa: No, it does not. Until very recently, returning officers were brought on board, they were appointed by the government of the day, and they would begin working for Elections Ontario primarily in the year of the election, so that there was really no compensation for them between electoral event years. So in non-election years, they maintained the role of returning officer, but unless they were called upon by Elections Ontario to come and participate in a workshop or some type of exercise that we were undertaking, there was no direct compensation for them during those non-election years.

1000

During election years, obviously, their compensation is set out in the statute in the schedule of fees that articulates, based on the number of hours they work, how much compensation they would be receiving for that.

Mr. Norman W. Sterling: What is the number?

Mr. Greg Essensa: The duties during an election period, prior to the indexation which is just undergoing, was \$14,200 for a returning officer.

The Chair (Mr. Greg Sorbara): That is during the election period, during the 29 days?

Mr. Greg Essensa: Yes, that is during the election period.

The Chair (Mr. Greg Sorbara): And prior to that, Greg, leading up to the election, enumeration, preparing—

Mr. Greg Essensa: It really depends, Mr. Chair. It's based on the particular riding that they are in, on perhaps the quality of the voters list leading up to that event.

Elections Ontario might have spent more time in the past with certain returning officers because we had some challenges and issues. So they are based on an hourly per diem, I believe, of roughly around \$30 or \$32.

The Chair (Mr. Greg Sorbara): Thirty-two dollars per—

Mr. Greg Essensa:—hour, based on the number of hours that they would have, in fact, worked for us, and again, based on the uniqueness of their particular riding and some of the issues that we may have had with that particular riding leading up to the election. So it would vary greatly between returning officers.

Mr. Norman W. Sterling: So what is your proposal? Is your proposal to hire these people on a full-time basis over a four-year period? Do they become permanent employees, or—

Mr. Greg Essensa: No, Mr. Sterling. The legislation currently allows that the government be the one that appoints the returning officer. So the returning officer is appointed by the government, but in law is beholden to the Chief Electoral Officer. What I am suggesting is that the legislation be amended, like most of the jurisdictions have moved along in Canada, towards allowing the Chief Electoral Officer to appoint the returning officer based on a merit-based appointment process.

There have been challenges in the past, I've been led to believe, with returning officers who perhaps at times didn't possess all the requisite requirements to perform those functionalities, so in fact there were some challenges for Elections Ontario in managing those particular individuals. It would be a far more seamless process if they were appointed by the Chief Electoral Officer. They would be seen by the public and by the candidates as being completely impartial, they'd be appointed on a merit-based process, and it would allow the Chief Electoral Officer, then, to manage that in a more professional manner.

The Chair (Mr. Greg Sorbara): Just on this point, any other comments or questions?

Mr. David Zimmer: No, no. I'll just wait for my turn.

The Chair (Mr. Greg Sorbara): I just have one, and maybe it's more a fantasy than a practicality, but the notion of, unlike what Norm would want, a full-time—"I work every year as a returning officer in a jurisdiction and I do all the work for the municipal election, I do all the work for the federal election, and I do all the work for the provincial election." Even if—we have a more or less regular cycle, and if there were that kind of agreement between municipalities so that when the election comes up, the returning officer says, "Oh, yes, we've been working on the list. It's very accurate and the address authority has updated our information": Will we ever get to that kind of model, of a full-time returning officer, and the returning office is responsible for deploying elections as they occur in the electoral cycle of the county and the riding and the province and the country?

Mr. Greg Essensa: What I'm suggesting today is that that is an area of study that takes a little bit more comprehensive review, and I am suggesting that this com-

mittee task some entity, some group or task force, with examining that in much greater detail. I do believe there are efficiencies that could be achieved that would provide for a greater service delivery to the electorate, a more consistent service delivery to the electorate, for every single election—

The Chair (Mr. Greg Sorbara): Could that be tasked to Elections Ontario, even in the statute, just to say—

Mr. Greg Essensa: It could be tasked to Elections Ontario, but I would then envision a much broader spectrum of the community that I would invoke, whether it be AMCTO, the municipalities or the federal government, to in fact look at that in a more comprehensive manner. Yes.

The Chair (Mr. Greg Sorbara): Okay, I'm going back to Peter, and then we'll—

Mr. Norman W. Sterling: In the United States, they elect these people as commissioners or whatever they call them.

Mr. Greg Essensa: That's correct, yes.

Mr. Peter Kormos: The whole issue of enumeration and voters lists: In one of the written submissions from a returning officer from Stormont-Dundas-South Glengarry—and he must know what he's talking about because his signature is above the title, "Prof. Chev. Wm. L. Upper, KTJ, KJ, M.Sc."—Master of Science—"RRFA." I have no idea what—

The Chair (Mr. Greg Sorbara): RRSP?

Mr. Peter Kormos: No, RRFA. I have no idea what those initials mean, but he's got a whole lot of them after his name, so he must be very important and very knowledgeable.

The Chair (Mr. Greg Sorbara): Or maybe he just has a lot of initials after his name—or both.

Mr. Peter Kormos: Or his hand slipped on the keyboard.

Laughter.

Mr. Peter Kormos: Don't make fun of those. Those could be some very serious designations. Chair, please.

The Chair (Mr. Greg Sorbara): No, I respect him. So what is your question?

Mr. Peter Kormos: He's suggesting compulsory registration, the compulsory return of voter registration cards, with serious levels of imprisonment for failure to do that.

The Chair (Mr. Greg Sorbara): That's where the initials came from.

Mr. Peter Kormos: KP?

Your predecessor talked about enumeration and about the myth of the physical enumeration, when people simply aren't at home or aren't answering their doors and how we should temper our expectations with respect to that. One of the big problems, down where I come from, in the last election or the election before that—first of all, voters getting several voting cards telling them to vote at several different locations. And that was rampant throughout the province, and most of the time we just use it, of course, to embarrass the government, with the implication that the government is somehow responsible

for this. But some people were frustrated to the point where they didn't vote. Two, the whole business of people not being enumerated and then the frustration on election day of showing up and their names not being there, and either local staff not being familiar with processes or not being able to amass the necessary returns.

How do we upgrade the enumeration? It's a real frustration, I think, for all parties and candidates, and for voters.

Mr. Greg Essensa: There is no question that the enumeration is a difficult concept. During the last election, Elections Ontario undertook during its target registration process the task of trying to knock on 1.5 million addresses for targeted registration. They only received just over a 40% answer rate from electors being at home during that particular time. It proved to be extremely costly. When I look across the provinces, Nova Scotia recently undertook a full enumeration that cost approximately \$7 an elector; BC is projecting that their next full enumeration will be roughly \$8 an elector. For us in Ontario, that would obviously equate to a \$55-million or \$60-million process—very expensive with, I would suggest, a very limited return.

What I am suggesting, though, is, should the committee turn its mind around to allowing for different mechanisms for voting, to allow for different methodology, i.e., mail or telephone voting? Could that in fact be tied back to the voter registration process? Because, currently, there is no impetus for an elector, really, to get onto the voters list or registration. Because we allow for election day registration, we're now seeing a greater trend where electors simply wait to election day to actually register themselves. Our numbers are significantly increasing election after election, where more and more electors—there is no impetus, there is no real benefit for them taking the time to get themselves on the list to ensure that they are registered.

In the old days, when we had a very closed election system where the list was constructed and it was put on the telephone pole, if you didn't check the list, well, you weren't able to vote. So there was real impetus for the elector to ensure that they were on the list. Because now we've moved to a process that has moved away from that, that allows election day registration, there isn't the same impetus for those electors.

What I am suggesting is, if the committee were to consider allowing for these alternative voting methods, we would in fact tie that back to the registration, meaning that if you wanted to exercise your democratic right through the use of a mail ballot or a telephone vote, you would only be able to do so if you were registered on the list by a certain time frame. So if you took the impetus to ensure that you were on the list as of August 1, then it could afford you the ability to choose the method, the multi-channelled voting method, whichever those channels become—for you to choose that channel through which you choose to exercise your democratic right. That would put value back in the electors' minds for their getting on the list. It would provide them greater

opportunity to exercise their democratic right in a variety of mechanisms that may be more suitable to their particular needs.

1010

The Chair (Mr. Greg Sorbara): On this issue, any other questions?

Greg, you suggest the creation of an address authority. I'm wondering (1) why did you put that off into a longer-term assignment for this process, and (2) would the creation of an address authority assist in creating a more accurate and more complete voters list? Let me just leave it at those two questions.

Mr. Greg Essensa: I'll talk to your second question first. There's no question it would create a much more accurate voters list than we currently have. One of the challenges we currently have within Elections Ontario is that when we receive data, whether it be from the national register of electors, from MPAC or from Canada Post—from some of our data sources—we may in fact receive three different address-naming conventions for a particular elector. Our ability to be able to triangulate and actually identify exactly where that elector is very compromised by the fact that we do not have a single address authority. Certainly, the ability of the Legislative Assembly to establish one entity, one body, to provide that would greatly enhance our ability to have a more accurate list.

I simply put it off as longer-term because I thought that there may be more challenges in actually being able to enact that, but if the committee were to consider that they could do that more rapidly, it would be far more effective in providing a more enhanced list for us, no question.

The Chair (Mr. Greg Sorbara): Finally, to go back to Norm Sterling's point about costs of returning officers, given the nature of the kaffuffle of enumeration in anticipation of an election and the rush and the accuracy and the revisions, would it not be cheaper just to have a returning officer who works full time for Elections Ontario every single year and whose main mandate is to constantly be upgrading the quality of a list of electors for a riding? As I said earlier, providing it in year one to the feds—they have an election every year—in year two to the municipalities and then every four years to us?

Mr. Greg Essensa: We currently have a process in place right now as a pilot where every returning officer is currently being paid by Elections Ontario approximately eight hours a month. They are doing work for us in the particular riding trying to ascertain voting addresses and locations that we cannot triangulate currently, working with us to identify new subdivisions and areas where there's greater growth in their ridings so that we get the most accurate and up-to-date information, and also trying to help us alleviate some of the challenges where we have names of electors and we simply don't know where they are.

It is a pilot. This has been the first year of the pilot, and we're examining that at the end of the year to see if there's merit for us to continue having them employed on

this monthly basis. It is something that, as long as we can justify that there is a substantive amount of work for them to do, we are currently examining.

The Chair (Mr. Greg Sorbara): Right, okay. I'll turn it over to David now.

Mr. David Zimmer: I've got three questions and one comment. I just need short answers to the questions. My first question is about setting the spending limits in advance. In the fixed-election scenario, how far ahead could you fix the spending limits? Second, in the case of a by-election, how would you manage setting the spending limits for the by-election because of the uncertainty when it's going to be called? How would you go about setting the spending limits in the situation of a minority government, which may fall at any time?

Mr. Greg Essensa: The first part of your question—we could certainly establish the spending limits much earlier in the year. There are two methodologies under which we could do that, two formulas—

Mr. David Zimmer: Just tell me how far in advance you could set it. I'm not so much concerned about the methodology.

Mr. Greg Essensa: Okay. Technically, we could probably set it some time around March or April the year of the election.

Mr. David Zimmer: Okay. And then, how would you manage the spending limit pre-set in a by-election situation?

Mr. Greg Essensa: We would have to utilize the pre-writ elector count that we currently have on the permanent register and do the calculation immediately upon the dropping of the writ.

Mr. David Zimmer: And in a minority government situation?

Mr. Greg Essensa: Again, we would have to use the pre-writ elector count and establish that as of that date, when the writ is dropped, that is the spending limit.

Mr. David Zimmer: My next question is on this idea of centralizing a receipting system. How do you see that working? Give me your best estimate of your cost of managing central receipting.

Mr. Greg Essensa: What we have envisioned at Elections Ontario is that there be an application that would be developed, an application or a software tool that would be utilized for every candidate, party and constituency association, where they would be afforded the opportunity to accept online donations. That information would be vetted by their CFO. The CFO would in fact have the ability to create the receipt, send the receipt. At the time of the actual donation being sent to the particular candidate, we would also receive a duplicate entry on a central site at Elections Ontario that would alleviate some of the difficult paperwork trail that we currently have in our paper-based system now, meaning that there would be less work for the CFOs. At the same time, it would allow us at Elections Ontario to have all of that data centrally, electronically already incorporated, thus as well alleviating a great deal of workload on our end.

Mr. David Zimmer: What's your best estimate of the cost to set that system up?

Mr. Greg Essensa: We are currently in the process now. We have been spending some time internally, and I will have that costing estimate for you in my submission in January.

Mr. David Zimmer: Do you have any idea now what range it's in?

Mr. Greg Essensa: At this point, I would be reluctant. We have not moved far enough along the process to actually suggest a cost, but I will have that for you definitely in my January submission.

Mr. David Zimmer: My third question has to do with the CEO imposing penalties for stuff that candidates shouldn't be doing. I agree that you ought to have that sort of authority, because as it stands now, if you want to get after a candidate, you've got to go see the Attorney General, and that's a whole other world.

The Chair (Mr. Greg Sorbara): It's very difficult to find him sometimes.

Mr. David Zimmer: Yes. It's whole other world to go in terms of seriousness. What kind of offences and penalties would you reserve for the CEO and which ones would you in fact go to the AG and do that route in the more serious ones? Where would the divide be?

Mr. Greg Essensa: Certainly, in my mind, the divide would be—if it is simply a case of a candidate or party missing filing dates, being remiss in submitting their documentation to Elections Ontario in a timely basis, those are ones that I would envision would be susceptible to an administrative fine that I outlined in my speaking notes. Where there is a malicious attempt to circumvent the electoral laws that we uncover, those are the ones where I would envision going to the Attorney General and instigating prosecution.

Mr. David Zimmer: Here's my comment. I've always been a great believer in a concept and philosophy—Wittgenstein, those guys, had this idea, and it's governed me well in life: Always call something what it is and not something else. I tie that comment to your idea of having schools have PD days so we can use the schools to vote. It seems to me that we're sending—if you went down that model, you're giving the wrong message to the voters and the public because you're trying to engage people in the voting process and all of that sort of stuff, and at the same time, you're going through this fiction of saying, "We're going to call it a PD day," so the teachers can go off and do professional development. And yet somewhere in your statement you came back with the idea that in fact you'd hire teachers to work in the polling stations in the schools. It seems to me that's just sending out the wrong civic message. You should always call something what it is and not something else, because that's how we get in some difficulty. So what do you think of the issue I've raised with calling it a PD day?

Mr. Greg Essensa: The issue, certainly from an electoral standpoint, is the increasing concern that the school boards and parents are expressing—

Mr. David Zimmer: No, I understand that, but this idea of calling it a PD day when it's not is a subterfuge. What we want to do is have clarity in the—

The Chair (Mr. Greg Sorbara): So you would like to have it as a school holiday, or you would call it a school holiday?

Mr. David Zimmer: Call it a voting day.

1020

The Chair (Mr. Greg Sorbara): Well, it is voting day as well, but as far as the school system is concerned, you would call it a non-school-day, or a school holiday.

Mr. David Zimmer: Shut the schools down for voting. That's the school's contribution to the civic process. But this idea of calling it a professional development day—

The Chair (Mr. Greg Sorbara): Maybe I could just follow that up with a question. Because of your experience in the city of Toronto, is the problem solved if the new statute requires school boards to make schools available, as required by the Chief Elections Officer, on election day?

Mr. David Zimmer: I'm fine with that idea. That's calling it what it is.

The Chair (Mr. Greg Sorbara): Right. I mean, the issue of a PD day or election day is all about—we have this problem, this conflict between parental concerns and security around schools and the fact that people are going to be traipsing in all day, 8 o'clock until 9 o'clock, to vote. Is it solved with mandated requirements for school accessibility on election day?

Mr. Greg Essensa: That currently exists already in the legislation. The Chief Electoral Officer does have that authority. What we have seen is that that is not negating the school boards and the parents raising more and more concerns about the security.

The Chair (Mr. Greg Sorbara): Right. Peter, did you have a comment?

Mr. Peter Kormos: Yes, on that very issue, because Noreen Bald, who's the returning officer for Niagara West—Glanbrook, sent us a note as well—

The Chair (Mr. Greg Sorbara): How many initials? Any initials?

Mr. Peter Kormos: The returning officer.

The Chair (Mr. Greg Sorbara): Right, okay. No initials.

Mr. Peter Kormos: A very humble, straightforward person. Probably a darned good returning officer, too. She talked about the school issue, about having to hire a security guard.

I say to Mr. Zimmer—because we learned from some of the statistics last week that the sooner people start voting in their voting lives, the more likely they are to vote, and if they're not voting early or at the first opportunity, they're less likely to vote. I think it was roughly like that.

It seems to me that you could address the security issues by securing various parts of schools. We should be encouraging schools to be used. That should be part of an educational process within those elementary and even

secondary schools about what's going on. It's the same argument about Remembrance Day as a holiday. The Legion doesn't want it as a holiday because they want the schools to be in session so that students can focus on that particular recollection.

I think we might think about encouraging or reinforcing schools and encouraging boards of education and the ministry to exploit the situation rather than to fear it with a bunker mentality.

The Chair (Mr. Greg Sorbara): Yes, David, did you have any other questions?

Mr. David Zimmer: No, I'm fine, thank you.

The Chair (Mr. Greg Sorbara): Okay. Norm, you have your hand up. You've got about five minutes. I'll just go around to see whether there are other comments or questions.

Mr. Norman W. Sterling: Well, my question to the Chief Electoral Officer is, we have received probably 15 or 20 written submissions from various returning officers. The committee made a conscious effort to ask returning officers from across the province to write to us and tell us about what they viewed as the most difficult problems they had with the present process. We have received quite a response, actually, and they've been very succinct in responding.

I would like to ask our researcher, Mr. Johnston, to sort of put the various suggestions or questions together. I would try to engage you, sir, in responding to the committee's requests with regard to those issues that have been raised here, because we have not covered them all and some of the them are, quite frankly, smaller matters about levels of compensation between one particular election officer and another, the clerk, the returning deputy, security—all that kind of stuff. I would ask you if you would respond to us in some manner on that.

Mr. Greg Essensa: I would be more than happy to respond to that. When the committee determined to ask the returning officers, I did encourage all the returning officers that they should exercise that opportunity to take advantage of this and supply their recommendations to you. I would be more than happy to respond in my January submission, to answer those particular questions from Mr. Johnston. By all means.

The Chair (Mr. Greg Sorbara): Just for the purposes of the committee, Larry Johnston will be summarizing and providing committee members with a summary of the submissions. Obviously, the submissions are part of the written record and are available to Mr. Essensa and to Elections Ontario. Your responses or comments on those will be helpful as we proceed.

Mr. Norman W. Sterling: Who would this committee talk to at the federal level if we wanted to talk to them about some parts of their process? Would it be the Chief Electoral Officer for Canada?

Mr. Greg Essensa: I would suggest it would be the chief officer of Canada.

The Chair (Mr. Greg Sorbara): David?

Mr. David Zimmer: I wonder if it's possible for the CEO to give the committee the following information, and I defer to your judgment whether it's a reasonable request. I'm quite interested in—I guess it's going to be an estimate—the number of breaches or offences that we've sort of passed on in the past, that have not been followed up on because we didn't want to take the draconian step of going to visit the Attorney General. I'd be interested to know how many things are happening out there that are just let go by the boards because you don't want to go to the Attorney General on that. And we are going to get a costing estimate on the running of central receipting?

The Chair (Mr. Greg Sorbara): Yes.

Mr. David Zimmer: Is that correct?

Mr. Greg Essensa: Yes, that is correct. I will be submitting that with my January submission to this committee.

The Chair (Mr. Greg Sorbara): I would think that the Chief Electoral Officer has a sense of the level of violations, if you can categorize them. I don't know how one would do that, particularly. You've only got one remedy, and that is going to see if you can find the AG, but some information on that would be helpful to the committee.

Mr. Greg Essensa: I'm more than happy—

Mr. Peter Kormos: Talk to his parliamentary assistant.

The Chair (Mr. Greg Sorbara): I can't order him to do that, but I know he will do that, and on your suggestion all the more quickly.

I just want to thank you, sir, for a presentation that was articulate, well delivered and very, very thoughtful. You've put a number of important issues before this committee. Thanks to your co-workers as well. We certainly look forward to continuing to work with you with the objective of getting a more effective Election Act as part of the statutes of Ontario, based on the very important three principles that you began with. With that, we'll—

Mr. David Zimmer: Chair, just one thing. It's the usual practice, more often than not, that we get a copy of the speaker's notes, apart from what's in Hansard. Will we—

The Chair (Mr. Greg Sorbara): If you make them available, Greg, we'll distribute them to the committee.

Mr. Greg Essensa: I'm happy to do so.

Mr. Peter Kormos: Thank you, folks.

The committee adjourned at 1025.



CONTENTS

Thursday 4 December 2008

Review of election legislation	EL-23
Office of the Chief Electoral Officer	EL-23
Mr. Greg Essensa, Chief Electoral Officer	

SELECT COMMITTEE ON ELECTIONS

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Mr. Gregory S. Sorbara (Vaughan L)

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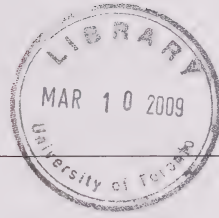
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EL-5



EL-5

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Jeudi 26 février 2009

Select Committee on Elections

Review of election legislation

Comité spécial des élections

Révision de la législation électorale

Chair: Greg Sorbara
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON
ELECTIONSCOMITÉ SPÉCIAL DES
ÉLECTIONS

Thursday 26 February 2009

Jeudi 26 février 2009

The committee met at 0930 in committee room 1, following a closed session.

SUBCOMMITTEE REPORT

The Chair (Mr. Greg Sorbara): We are now back in open session. The first order of business is to consider the decision of the subcommittee. Kevin?

Mr. Kevin Daniel Flynn: Your subcommittee met on Tuesday, January 27, 2009, to consider the method of proceeding on its order of the House dated Wednesday, June 11, 2008, and recommends the following:

(1) That the committee clerk instruct legislative counsel to begin drafting a bill that will consolidate the Elections Act, the Election Finances Act and the Representation Act into a single piece of legislation.

(2) That the committee clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Greg Sorbara): Is there any discussion? Mr. Kormos.

Mr. Peter Kormos: I suppose, Chair, I have two questions. One—and if need be, I'll move an amendment, if this is the case—to be assured that what legislative counsel is being asked to do is to consolidate the existing three acts: the Elections Act, the Election Finances Act and the Representation Act. I understand that there's some value in having that tentative bill prepared, because, as you explained informally to me earlier, it requires a fair amount of work in advance, obviously.

The second one is, I have no idea what the second recommendation means, or what it contemplates, or what it embraces. Perhaps Mr. Flynn, who has moved the adoption of the subcommittee report, could answer that.

Mr. Kevin Daniel Flynn: Not being present at the meeting, I can tell you what I think of it. I'm not sure; obviously, I wasn't there. Mr. Zimmer, Mr. Sterling and the Chair were there. But I think, as has been stated before, this would allow the process to start moving along, whatever process that is going to be. This would allow the Chair, with the assistance of the clerk—or the other way around, perhaps; the clerk, with the assistance of the Chair—to start the proceedings as to what's going to culminate in the report we were talking about earlier.

The Chair (Mr. Greg Sorbara): I am advised by the clerk that this is a standard provision that allows the work to begin prior to the adoption of the subcommittee's report by the committee.

Mr. Peter Kormos: Referring to the work in recommendation number 1?

The Chair (Mr. Greg Sorbara): Yes, that's right.

Mr. Peter Kormos: Okay, that's where I find the proposal confusing, because “be authorized prior to the adoption of the report of the subcommittee ... to facilitate....” Really what it means is, “authorized prior to the adoption of this report of the subcommittee to commence making any preliminary arrangements necessary to facilitate” the recommendation in paragraph 1. If that's what we're saying, can we please say that in the subcommittee report? I don't think I'm being too obtuse.

The Clerk of the Committee (Mr. Trevor Day): So we would replace “the report” with “this report of the subcommittee to commence making any preliminary arrangements necessary to facilitate recommendation number 1”?

Mr. Peter Kormos: Yes.

The Chair (Mr. Greg Sorbara): Are we agreed on that amendment?

Mr. Norman W. Sterling: I agree on that amendment. Could I just add that in order to make it clear to anyone who's reading this in Hansard, why don't we include the word “present” before the Elections Act, before the Election Finances Act, and the—

The Chair (Mr. Greg Sorbara): Or the word “existing”?

Mr. Norman W. Sterling: Okay, “existing” is fine.

The Chair (Mr. Greg Sorbara): Peter Kormos.

Mr. Peter Kormos: Fair enough. Having said that, I assume that the clerk has complied with paragraph 2. Notwithstanding that there has been no adoption by the committee—which really in fact is the subcommittee—of the subcommittee report, perhaps paragraph 2 is redundant, unless the clerk wants to cover his tracks.

The Clerk of the Committee (Mr. Trevor Day): I would appreciate paragraph 2 staying in.

The Chair (Mr. Greg Sorbara): Okay, that's fine.

Mr. Peter Kormos: The clerk is wiser than any of us. I have no quarrel with that, then.

The Clerk of the Committee (Mr. Trevor Day): So Mr. Sterling's amendment would be that we add

"existing" before "Elections Act" and "Election Finances Act" and "Representation Act"?

Mr. Norman W. Sterling: Unless you can find some other way to write it, that's fine.

The Chair (Mr. Greg Sorbara): I think "existing" is fine, from my perspective. Kevin?

Mr. Kevin Daniel Flynn: Yes, I'm absolutely pleased to incorporate that.

The Chair (Mr. Greg Sorbara): And there are amendments to the second part of that subcommittee report as well? The clerk has those?

The Clerk of the Committee (Mr. Trevor Day): We've got Mr. Kormos's changes and Mr. Sterling's changes. It's really now just a case of voting on it, as amended, with all those changes.

The Chair (Mr. Greg Sorbara): I think the committee members have the amendments. All those in favour—

Mr. Peter Kormos: May we read those one final time?

The Chair (Mr. Greg Sorbara): Okay, maybe I will do that. I will read the two recommendations.

"(1) That the committee clerk instruct legislative counsel to begin drafting a bill that will consolidate the existing Elections Act, the existing Election Finances Act and the existing Representation Act into a single piece of legislation.

"(2) That the committee clerk, in consultation with the Chair, be authorized prior to the adoption of this report of the subcommittee to commence making any preliminary arrangements necessary to facilitate recommendation number 1."

Mr. Peter Kormos: Thank you, Chair. I'm prepared to vote on that.

The Chair (Mr. Greg Sorbara): All those in favour? Opposed? Carried.

REVIEW OF ELECTION LEGISLATION

The Chair (Mr. Greg Sorbara): What I am proposing now is that we begin a discussion on three things. The first thing is the set of suggestions put forward by me and my party that has been provided to both of the opposition parties and has been discussed by the government party; that the committee just hear from each of the opposition parties as to their reactions and, more broadly, as to what each of the opposition parties think ought to be included in the policy recommendations that we ultimately bring forward as the body of the report and that would drive the ultimate redrafting of the single bill.

Perhaps we could start off with Mr. Sterling.

Mr. Norman W. Sterling: Can I just say, generally speaking, with regard to these proposals that we're going to be discussing over the next coming meetings, I think there are maybe 24 different proposals advanced. I think you, Mr. Chair, indicated that this was the government position after advice from the Chief Electoral Officer,

both past and present; it was the view of the government that that would be the case.

From my point of view, I would like to be able to ask what the suggested proposal means in real legislative language when it gets down to the bottom. That's the approach I'd like to take. I've had some preliminary discussions with my party and with my caucus, and there were questions as to why this proposal is there.

For instance, the first one is about advance polls and the idea of giving the Chief Electoral Officer complete discretion, as I read it, to determine the number of days, hours and locations on advice of returning officers to meet local needs. I don't know what the intent of that is. Is it to limit advance polls or to expand advance polls? My party and my caucus are saying that if this is to expand, fine; if it's to contract, it's not fine. I don't know what this means. How do we ensure that there is a bare minimum of—

The Chair (Mr. Greg Sorbara): Okay, well, I think the answer is that this is not to contract advance polls, but this is to organize advance polls based on the particular realities of a particular riding. For example, the way in which an advance poll might be organized in a very rural northern riding might be very different from an urban setting. The direct answer to your question is that there would be certain bottom-line rules in the legislation with flexibility to establish hours and locations so that not every advance poll had to be open from 8 in the morning until 9 at night in all locations. It's like what you said earlier on about the use of certain technologies. It's a very expensive process to keep an advance poll open in a situation where maybe two or three people during the entire period of an advance poll day actually vote. But we would get down to that when we look at the specific language of the draft bill.

0940

Mr. Peter Kormos: I trust we're going to deal with these one at a time in the order that they've been put on the page. I hope that's the process.

I asked Mr. Sorbara—recognizing that this was not going to be a broad-based discussion of things like subsidized financing of political parties, things like that—so I said, let's cut to the chase, reduce the government's wish list, its grocery list, if you will. I appreciate it. So this is what we're dealing with here.

My caucus and party is very concerned about the language of the proposal, as was Mr. Sterling, because it appears to suggest that this Chief Electoral Officer have absolute discretion around advance polls. They noted that it was a long fight to get the minimum number of advance polls as they are now in the status quo. They recognize that elections are expensive—of course they are. But at what cost do we deny people the opportunity to vote? My caucus is adamant that there be the minimum of the status quo—and I recall addressing this during several of the previous meetings. Surely there has to be uniformity from riding to riding. I think that this is a critical thing. If somebody lives in Willowdale and then moves to Kenora, I believe they should be able to expect

that the same rules apply, and I'm going to address that further when it comes to the proposal that there be experimentation in terms of voting practice in general elections as well as by-elections.

So our position is this: We have no quarrel with the CEO using its discretion to increase the number of advance polls. We believe that the status quo under the Election Act, section 44, as indicated by Mr. Johnston, should be maintained, be the minimum. Furthermore, in terms of uniformity, and appreciating that there may well be instances—see, the problem is we haven't been told in which advance polls, in which communities, only three people showed up. It may well have happened; I don't know. But surely in the interest of uniformity, people in remote areas, where the suggestion is this is more likely to happen, shouldn't be denied the same flexibility about voting as people in Willowdale. So our position is that the CEO can use its discretion to increase the number of advance polls, but the number of advance polls has to be consistent; that the minimum established in section 44 has to be maintained; and there has to be uniformity around the hours.

The Chair (Mr. Greg Sorbara): I guess one of the examples that would be illustrative would be to take, say, the riding of Gilles Bisson. I think what the proposal, which emerges primarily from—this is a Chief Electoral Officer-type proposal—is that perhaps there would be an advance poll on a certain day in Kapuskasing, and given the lifestyle there, that advance poll would only be open from 9 until 6, and then the following day there would be an advance poll of two days in Timmins during similar hours, rather than having advance polls open in both of those locations through the standard time.

But right now I'm just trying to get feedback, and I hear what both of you are saying.

Mr. Peter Kormos: A question—because that's an interesting observation: What does section 44 compel Timmins-James Bay to do currently, in terms of Kapuskasing versus Timmins? I don't know.

The Chair (Mr. Greg Sorbara): I hear your reaction, and I think we should note that as we refine our recommendations.

Mr. Norman W. Sterling: Can I ask Mr. Johnston, our researcher, a question? At the present time, the Chief Electoral Officer can place these advance polls outside of the returning office wherever he wants. Is that correct?

Mr. Larry Johnston: My reading is yes.

Mr. Norman W. Sterling: So he can pick 10 other locations, and that's his restriction?

Mr. Larry Johnston: I believe the act prescribes the days on which advance polls can be held but gives the CEO and the returning officer the discretion to choose the designated locations and also the hours of polling at those locations.

Mr. Norman W. Sterling: So he has that discretion now.

Mr. Larry Johnston: Under the current act, yes, but not the dates.

Mr. Norman W. Sterling: So you can't have it the weekend before, but you can have it a week and a half before. I don't know what the exact—

Mr. Larry Johnston: Whatever the prescribed dates are, advance polls must be held.

Mr. Norman W. Sterling: Did any of the returning officers comment at all about advance polls?

Mr. Larry Johnston: Most of them did.

The Chair (Mr. Greg Sorbara): If you have a look at the report of the Chief Electoral Officer's submissions to this committee, there is reference on page 8 to some examples. At one advance poll, 1,600-plus people voted, and at another advance poll, only 150 people voted.

Mr. Peter Kormos: But 150 ain't three.

The Chair (Mr. Greg Sorbara): No, I understand that. I simply want to get the reaction of this committee to the proposals that we set forth so that we can refine them and make sure that they are—and I think we have that.

Maybe we could go to the next item. I'm just going through the draft proposals.

Mr. Peter Kormos: I don't know what the Liberal Party caucus have had to say about that.

Mr. Kevin Daniel Flynn: I believe, when the report was given, I was present in the room, and there seemed to be general acceptance that this was moving in the right direction. But at that point, we didn't have any feedback from the other caucuses, so I'm as interested in hearing that today. I think there was an underlying theme that the intent is to make it easier for more people to vote.

Mr. Peter Kormos: Again, that's our motive as well. That's why we're adamant about maintaining, at the very least, the status quo and giving the CEO the discretion to increase on that.

The Chair (Mr. Greg Sorbara): Okay. Maybe we'll just go to the second issue that we raised: mobile polls.

Mr. Norman W. Sterling: I think there was general agreement in our group that we should follow the federal model with regard to this matter, providing there is some kind of fallback for someone who might have been missed at the nursing home or whatever and wants to vote late in the day and the mobile poll was there early in the day.

Mr. Peter Kormos: The response to this was very dramatic. It wasn't so much about the phenomenon of mobile polls. There's reference later on to mobile polls dealing with housebound people, amongst other things. But the inference that was drawn was that it would be at the cost of the polls in institutions like hospitals and long-term-care facilities. That further went to the issue of the time frames, because later on there's a suggestion about polls in institutions and restricting the time frame, a suggestion that long-term-care residents are all tied down in their wheelchairs and don't travel out and about and have freedom during the course of a day to go to the supermarket or visit grandkids. Obviously, it isn't the case.

The NDP are adamant that hospitals and long-term-care homes, and in the interest of uniformity, have the

same polling hours and have in-house polls. We accept the proposition of mobile polls to accommodate house-bound people, for instance, in addition to that. We considered as well how this could accommodate a proposal about voting in a polling area other than your own. My spouse is in long-term care: I'm attending to the spouse. She gets to vote, because there's a poll in that long-term-care facility—or extended care, at the Welland hospital—and by gosh and by golly, I can vote there too. So we, again, agree with mobile polls, but not at the expense of the status quo.

0950

The Chair (Mr. Greg Sorbara): This is really a simple proposition. In the main, what is says is, if there are 20 people on the voters' list at a long-term-care facility and all those 20 people have voted, there is not much purpose in keeping the polling station open till 9 o'clock. That mobile poll can close and the ballots be brought to a central counting spot and counted at the end of the voting day.

Mr. Peter Kormos: That's the counter-argument.

The Chair (Mr. Greg Sorbara): Again, everything that we are proposing and everything that we accept from the Chief Electoral Officer, whose view we share, is that we need to facilitate the voting process, and at the same time we need to make sure that we're running an efficient organization. So the mobile poll where everyone has voted—you need not keep poll clerks and DROs there until 9 o'clock. There's no purpose.

Mr. Peter Kormos: You see, that's not what has been articulated here.

Mr. Norman W. Sterling: I don't think that that's what's intended here either. For instance, if someone has severe dementia in a long-term-care home, it's unlikely that they're going to vote. Maybe they're bedridden or whatever. So I don't think it's a case of getting all of the voters out and then closing it down. I don't think that that's practical in terms of that happening. But notwithstanding that, I think we would still be in favour of doing what the federal government does in this regard, which, essentially, supports the resolution.

Another fallback position could be: as long as everyone on the voters' list was approached as to whether they wanted to vote or not. That might be acceptable to my friends, in terms of saying, "The poll's going to be here from 9 to noon, 80% of the people have voted, and we've gone and talked to the other 20% and they've said, 'I don't want to cast a ballot' or can't respond."

Mr. Peter Kormos: Mr. Sorbara, your argument—with respect—is more compelling, because it's the fail-safe. Yes, it may well mean that there are some people who never would vote, but you're going to keep the poll open because their name is still not stroked off on the voters' list.

How many voters who are mobile and youthful say they don't want to vote until we call them half a dozen times—15 minutes before the close of the polls? With respect, people do change their minds. They're grumpy

in the morning, they're less grumpy in the afternoon—any number of things.

Your proposition is one I think that could be far more readily sold, if I could put it that way.

Mr. Norman W. Sterling: Of course it can, but I'm just saying, I don't know whether your proposition is practical.

The Chair (Mr. Greg Sorbara): I think the second point here—and I'm glad to hear that your caucus is supportive—is that we attempt, as much as is possible and practical and wise, to reflect what is done at the national level, at the federal level, so that the voting experience for the voter, whether he or she is voting in a federal election or a provincial election, is similar—similar location, similar standards, similar identification requirements, similar processes.

I hope that we make a few advances that ultimately are adopted by the federal level, but in mobile polls, the idea is that the federal system has developed some mechanisms and we would, as much as possible, try and mirror those mechanisms.

Mr. Peter Kormos: Can we get some advice as to what those are? I'm putting more workload on Mr. Johnston.

The Chair (Mr. Greg Sorbara): I think that's fine. I think there is some information in the Chief Electoral Officer's report, but I think we—

Mr. Peter Kormos: I'm reading it.

The Chair (Mr. Greg Sorbara): Okay. Can we move on to "eliminate proxy voting and replace with special mail-in ballots"?

Mr. Norman W. Sterling: Can I just ask, on number 2, with regard to the returning officers who responded, and there's a summary here: Is there anything with regard to mobile polls on here? This isn't an existing section of any act.

Mr. Larry Johnston: It would be under what they call the section that deals with the institutional polls. Yes, section 14(1). It's on the bottom of page 5, and you have a summarized observation: Use mobile polls to serve these institutions.

As you can see, a great majority of the returning officers who responded to the committee endorsed that recommendation, the very last thing on the bottom of page 5.

Mr. Norman W. Sterling: At the top of page 6 there were two returning officers who said, "Reduce the time spent at polling places in retirement residences and nursing homes so long as a full opportunity has been given for all ... electors to vote."

The Chair (Mr. Greg Sorbara): Can we go on to "eliminate proxy voting and replace with special mail-in ballots"? Once again, this provision would be similar to the federal special mail-in ballot process. Comments?

Mr. Norman W. Sterling: Can I ask Mr. Johnston just to review with me what is the special mail-in ballot process that our federal government has. Do you know what that is, Mr. Johnston?

Mr. Larry Johnston: It involves various classes of voters, for one thing. Each opportunity has a special section in the act, so there is a section that deals with special ballots for the Canadian Armed Forces personnel. There's another section that deals with people permanently stationed, say, in embassies or other places abroad. There's another section that deals with any eligible voter in the country. So it varies from section to section. There's another section that deals with persons with disabilities who can vote by special ballot.

Mr. Norman W. Sterling: But to get the special ballot, as I understand it, you have to apply. Is that correct?

Mr. Larry Johnston: Correct.

Mr. Norman W. Sterling: And you have to apply in writing. Is that correct?

Mr. Larry Johnston: Or you can go in person to a returning office and apply there, as well.

Mr. Norman W. Sterling: There you have to show identification?

Mr. Larry Johnston: Correct.

Mr. Norman W. Sterling: How do they ensure that the person who's mailing in the ballot is the person who has been given, I guess, the right—

Mr. Larry Johnston: At the time of application, a signature is required and then, when one places the ballot in the envelope that's provided—and it probably has some security features as well—one must sign across the seal of the envelope so that the signature on the envelope could be compared with the signature that has been provided.

Mr. Norman W. Sterling: Has there been any evidence of abuse at all at the federal level?

Mr. Larry Johnston: I've not heard of that.

The Chair (Mr. Greg Sorbara): Mr. Kormos.

Mr. Peter Kormos: The integrity is a bit of a problem with mail-in ballots, whether it's having your grandmother living with you sign after you've filled out her ballot—by and large, we are very supportive of the prospect of mail-in ballots in exchange for proxy. That one got a big gold star.

The Chair (Mr. Greg Sorbara): Good.

Mr. Peter Kormos: But even to the point of saying, rather than making people pass some sort of test before they're entitled to one, why not let anybody who wants to use a mail-in ballot do it? That avoids the technicalities of saying, "Well, you come close to meeting the test, but you don't quite make it." Why not let anybody? That's number one. Number two, mail-in: Fine. Obviously it has to reach the returning office X number of days before the de facto election so that the voters' list can be adjusted to indicate that that person has voted. I appreciate the language is "mail-in." Why not give people an opportunity to deliver that mail-in ballot by hand, as if it were a courier service, to the returning office? You've got some parts of the country that might have—you talk about rural Ontario. Remote Ontario might have logistical problems in terms of the timing of mail delivery. I get letters from Toronto to Welland in one day sometimes, other times it

takes far longer, so why not let people deliver to the—because what's the difference if it comes by post or by hand?

1000

Mr. Larry Johnston: I believe that in most jurisdictions which have a mail-in ballot, that also is something that can be delivered to the returning office—and usually the deadline is the end of polling day.

Mr. Peter Kormos: If it's the end of polling day, how does that name get stroked off the voters' list?

The Chair (Mr. Greg Sorbara): I think the answer to that is that when someone has qualified for a special ballot, there is a separate kind of polling list that does not allow someone to come to the poll and vote.

Mr. Norman W. Sterling: You're compelled to use it? It's the only option you have.

The Chair (Mr. Greg Sorbara): I don't think you can be given a mail-in ballot and then say, "You can use that," and you can go and vote, or you can go and—

Mr. Peter Kormos: No; I appreciate the dilemma.

Mr. Norman W. Sterling: As I understand, what Mr. Johnston is saying is that it doesn't prevent you from voting on election day at your polling station if you want. All you have to do is go there and hand the envelope to the RO in the polling station.

Mr. Peter Kormos: That's interesting. That adds a little bit of complexity to it because—

Mr. Larry Johnston: I think it's at the returning office.

Mr. Peter Kormos: I told my NDP colleagues, of course, to perhaps wait until after the weekend of March 6 to see how effective mail-in ballots were.

I'm just trying to flesh this out on my own. I appreciate what Mr. Johnston says about delivery, but you're going to have some awfully frustrated people who say, "Yes, I got my mail-in ballot but I lost it. That's why I'm here today, and I swear I didn't mail it in." I suppose that after the fact, if someone wanted to go through all this horrible mechanical processing in most ridings because of the numbers, you could find people who did it.

I'm looking as well at Essensa here. Mr. Johnston, can you please help us with some fleshing out of the pragmatics of that in places where it's used?

Mr. Norman W. Sterling: You say there are eight provinces and the federal government that use it.

Mr. Larry Johnston: Yes.

Mr. Norman W. Sterling: Okay. Is it the same process in all eight and the feds or is it very, very close, in terms of the—

Mr. Larry Johnston: There are two matters here. One is the legislation and who is eligible. The other is the actual administration of the process, and that's usually not spelled out in the legislation. One would have to consult with the election officials to see what their actual mechanics were for doing this. But I expect that there's a more or less similar process applied because election officials tend to share best practices etc.

Mr. Peter Kormos: In any event, we support the proposition.

The Chair (Mr. Greg Sorbara): Good.

Mr. Norman W. Sterling: We support—

The Chair (Mr. Greg Sorbara): But I just want to clarify: I understand that your caucus thought, “Why don’t we expand that?”

Mr. Peter Kormos: Yes.

The Chair (Mr. Greg Sorbara): At this point, my own view is that that goes well beyond modernization and housekeeping, and starts to create another way of voting, and that is by mail. It may be something some future government wants to consider, but at this point we’re still working on the basis that the normal course is to go to a polling place and mark a ballot with an X as the method of voting.

Mr. Peter Kormos: Okay. We accept the proposal. We urge that universalization of it be considered, because this is also the process you’d use if you knew you were going to be in Europe. Even before the advance polls start we have votes, you know. But then the process of applying for it, if you’re going away for a month, if you’re going golfing in Florida—

The Chair (Mr. Greg Sorbara): That wouldn’t be me. Go ahead.

Mr. Peter Kormos: I don’t go to golf courses, so I wouldn’t know whether I’ve seen you or not, but in any event—

The Chair (Mr. Greg Sorbara): I’ve never been on one and never will be. No offence.

Mr. Peter Kormos: Is there going to be a process whereby the person—here we get into proxy stuff. My folks left for Florida a week before the returning office opened. They’re going to be there through the course of the election. How do I get a mail-in ballot for them sent down to Florida?

The Chair (Mr. Greg Sorbara): I think those are issues that, as Mr. Johnston said, are part of the best practices that are developed and shared amongst many election commissions.

Mr. Peter Kormos: Okay, I’m not going to flog this anymore—for the moment.

Mr. Norman W. Sterling: My view is that we should be fairly careful in terms of going into this area. My caucus is all for it, but on the other hand, I don’t think we should stray too far from models that have been used in other places. We can always open this up as time goes on, but it’s better to be safe as you go into a new way of voting.

The Chair (Mr. Greg Sorbara): Okay.

So, enhancements to the service delivery model: Questions and comments?

Mr. Peter Kormos: General agreement. However, our caucus and some of the party bureaucrats are really concerned about what “modern customer service systems” meant. Is that like Rogers, when you call their 1-800 number because your cable isn’t working—

The Chair (Mr. Greg Sorbara): They tell you to go online.

Mr. Peter Kormos: The problem is you’ve got Rogers Internet.

Or is it like Bell Sympatico, when you’re talking to somebody in New Delhi about your Sympatico network?

So we literally had some problems with that, in terms of wanting it fleshed out. I’m not sure how this would be worked in legislation.

The other issue that accompanied it, though, in supporting the secularization and the universalization, professionalization, of DROs, poll clerks, poll workers—yes. But then making sure—because that’s an effort to streamline, because you’ve got this type of queuing—it talks about that too. The accommodation of scrutineers was very important to our folks, because that’s one of the best tests, especially in smaller-town Ontario, because the scrutineers know who people are in a polling area, in a neighbourhood. That’s one of the best tests of maintaining the integrity. So we wanted to make sure scrutineers were accommodated at all the levels so that they could follow that voter and that ballot as well.

The Chair (Mr. Greg Sorbara): And that was something that was raised by our caucus.

Mr. Kevin Daniel Flynn: A lot of self-interest there from all parties, I think—and everybody wants it to work for the scrutineers, obviously. Certainly, in the past it seemed to me that legislation was written—because everyone was voting, the legislation focused on who shouldn’t be allowed to vote. Now what we’re trying to do is bring forward things that would facilitate more people voting, and this is one, I think—because somehow you walk into the polling place and often you think that the process has become more important than the act. The fact that you have a poll clerk and a returning officer and a DRO at every location seems to be more important than your ability to allow somebody to actually vote and to encourage them.

Mr. Peter Kormos: We agreed with the proposition, but we also wanted to make sure that the proposal accommodates scrutineers.

The Chair (Mr. Greg Sorbara): That’s duly noted.

Mr. Peter Kormos: The scrutineers do two functions: one, they assist that particular candidate in pulling his or her vote—we know that; two, they’re the ones who challenge, who say, “Bull feathers. You’re not Kevin Flynn. I know Kevin Flynn.”

Mr. Norman W. Sterling: I guess in some ways this presupposes the whole notion of things that are going to come later, and that is that you’re going from poll clerks and deputy returning officers to poll workers. Does one happen without the other?

The Chair (Mr. Greg Sorbara): Let’s be frank here. We operate pretty much in the 19th century at our polling places. Political parties have to give you a list of poll clerks, and there’s all that patronage. It’s an embarrassment. We need people there who are well trained to get people in and out of a polling place as quickly as possible—and that’s the essence of this recommendation—and the experience of the voter is, “Oh, this works pretty well. I’ve got my ballot, I’m sent to the right place, I get to vote, I’m out in five minutes.” The most embarrassing situation is where there’s a whole bunch of

election workers sitting around at three polls in a school gymnasium and there's a 20-minute lineup at another poll. It doesn't make sense. It's an embarrassment to modern delivery of service. This is simply, along with paying poll workers properly and allowing that to be fixed based on a Management Board of Cabinet model of remuneration, giving the Chief Electoral Officer enough time to hire and train people so that they know what they're doing there and they're available and ready to work the 14-hour day that is voting day.

Yes, you're right. Sorry to go on about that, Norm, but you're right that it's contingent upon a whole bunch of other things: You've got to have proper salary levels, change the name and allow for modern methods to be used to facilitate the process. Frankly, we will hopefully save some money when we do this because there won't be a lot of redundancies based on statutes that were relevant to 1905 or something.

1010

Mr. Norman W. Sterling: But once you go to the teller system as such, does this also say that people can vote anywhere in the constituency?

The Chair (Mr. Greg Sorbara): No. I think you know the model. Mostly, when you go into a school gymnasium—

Mr. Norman W. Sterling: No, I know the model and all the rest of it. I'm just asking where this particular recommendation is taking us. I understand that it means, then, that you're not going to have a deputy returning officer and a poll clerk in each poll and you're going to have poll workers and that kind of thing, but that could happen in the present system without any bank-teller system.

The Chair (Mr. Greg Sorbara): There are statutory impediments to that happening in the present system because of the statutes.

Mr. Norman W. Sterling: Oh, I know. That's one thing that you agree to, that you're doing away with DROs and poll clerks. So you're going to have poll workers and no differentiation, probably, in pay between them. But the second part is going to an electronic registration rather than having paper poll lists of people you have identified who can vote there. Once you go to that, then there is no good reason, if someone mistakenly shows up at poll 72 instead of poll 71, why they couldn't vote at 72, because presumably you could interconnect. Is that—

The Chair (Mr. Greg Sorbara): No, that is not being contemplated here, at least from the perspective of our caucus. There was a desire to continue to have people vote in the poll where they are enumerated, and this facilitates the scrutineer process and the so-called bingo sheets and all of that stuff. We are not, at this time, going to a situation where no matter where you live in the riding of Vaughan, you can go into a polling place anywhere in Vaughan and vote at that poll; we're not going there yet.

Mr. Peter Kormos: You were enthusiastic about that proposition.

The Chair (Mr. Greg Sorbara): Personally, I am very enthusiastic about that proposition, but the fact is, our caucus is not—

Mr. Peter Kormos: But what if our two caucuses, Mr. Sterling's and mine, are?

The Chair (Mr. Greg Sorbara): Well, then we'll overturn the view of the government caucus and put it in place right away. How's that? But your caucus would like it the least of all.

Mr. Kevin Daniel Flynn: My understanding, Mr. Chair, was that there was support for voting in the same polling place but not necessarily having to go to a specific table.

The Chair (Mr. Greg Sorbara): That's right.

Mr. Kevin Daniel Flynn: You would vote in the place you would vote at typically, but, as the example was given, if there was a lineup of 20 people at the one table and there was nobody at the other table, you would be allowed to go to the other table.

Mr. Norman W. Sterling: Yes, but basically the problem is, once you've got the electronic machine, nobody can sanely say they're going to deny somebody the vote, particularly if they got the wrong card, saying, "You should be in 72," you go to 72 and in fact you should have had a card to go to 71.

Mr. Peter Kormos: How does that help scrutineers in either of the two obvious functions that scrutineers perform?

Mr. Kevin Daniel Flynn: Mr. Sterling's right, it is an extension of that logic. If you keep it going along that track, you do end up where you're talking about. At this point in time, though, our caucus is only prepared to go the route that the Chair has outlined.

Mr. Peter Kormos: But how do we accommodate scrutineers?

The Chair (Mr. Greg Sorbara): You accommodate scrutineers by—we had a very specific discussion about this with the chief returning officer about being able to provide so-called bingo sheets as quickly as possible and more quickly than currently.

Mr. Peter Kormos: That's the political function of scrutineers. What about the integrity function of scrutineers?

The Chair (Mr. Greg Sorbara): Well, the integrity function of scrutineers is, I think, the same thing. You mean challenging someone coming in to vote?

Mr. Peter Kormos: Yes.

The Chair (Mr. Greg Sorbara): I don't think it would be any different.

Mr. Peter Kormos: Well, no, because you see, you say you can vote at any one of the stations.

Mr. Norman W. Sterling: They're saying that you can't.

The Chair (Mr. Greg Sorbara): You can have your name crossed off at any one of the teller wickets.

Mr. Peter Kormos: Tellers, voting tables in that voting area, but you see, scrutineers at A have the voters list for A. Scrutineers at B have the voters list for B. So if

a person who's on the A voters list goes to the B table to vote, those scrutineers won't have—

Mr. Norman W. Sterling: The scrutineer would have to sit where the electronic machine was.

Mr. Peter Kormos: What electronic machine?

Mr. Norman W. Sterling: Pardon?

Mr. Peter Kormos: What electronic machine?

Mr. Norman W. Sterling: Well, with the list.

Mr. Peter Kormos: Oh, okay. I'm sorry.

Mr. Norman W. Sterling: You have the teller machine—

Mr. Kevin Daniel Flynn: Well, I think it goes without saying that if you change the process, you're going to change the scrutineering process in some way.

Mr. Peter Kormos: All right, but we've got to accommodate the political scrutineers.

The Chair (Mr. Greg Sorbara): Let's go on to item number 5, return to vouching. Mr. Kormos.

Mr. Peter Kormos: Fascinating: The advice the caucus got was mixed. It's a very difficult one. On the one hand, clearly this is about homelessness and the right to vote, restricting the number of voters a person can vouch for. An example was given of social workers who work in a particular community, a particular neighbourhood, associated with a particular church or who literally work on the streets. They may be able to bring six people to a poll and legitimately say, "I can vouch for all six of these people." That was the one argument.

The other argument was far more adamant and supported the photo health card identification, saying, "No, we want voters to have to produce identification." As you know, that becomes contentious, especially around the issue of homeless people or sometimes the very, very poor who live in a room, who don't have telephone bills—literally have no bills, no mailing address. I don't know. I really think that we have to maybe think this one out a little more.

The Chair (Mr. Greg Sorbara): Mr. Sterling.

Mr. Norman W. Sterling: I guess it depends upon what we do with the identification issues as well. We have people on both sides of this one as well. Quite frankly, it does work better in a rural polling division because in a rural polling division the population doesn't change very often. It's not only the guy who's sitting there and the person who's vouching; everybody in the room knows that this is Mrs. Johnson, or whoever it is, and she has lived there all her life.

The Chair (Mr. Greg Sorbara): Well, this is designed to try to go down the middle of the road between the various viewpoints. On the one hand, it's designed to accommodate Mr. and Mrs. Smith, who come to vote and maybe they're not known but Mrs. Smith happens to have her wallet and, doggone it, Mr. Smith forgot his wallet at home. He's not going to drive 20 miles back to the ranch to get his wallet, and Mrs. Smith can say, "I can vouch for him."

It's also to accommodate the people that Mr. Kormos was talking about, who, by sad circumstance, really don't have any other way of identifying themselves than by

having someone say, "Yes, I know this is John Smith, I know he's a Canadian citizen and I know he's over 18."

The third component is just not to create an opportunity of marching people into the polls, and that's why we've limited it to two.

Kevin, did you have a comment?

Mr. Kevin Daniel Flynn: No, I think you've just explained it quite clearly.

Mr. Peter Kormos: In the proposal, and in the status quo, a voucher has to sign documentation?

1020

The Chair (Mr. Greg Sorbara): I don't think there is vouching currently. I think we eliminated that.

Mr. Peter Kormos: The rural vouching.

The Chair (Mr. Greg Sorbara): There is some documentation to be signed.

Mr. Norman W. Sterling: Hollins just—was it this piece or the proxies he didn't allow?

Mr. Peter Kormos: Proxies.

Mr. Larry Johnston: He didn't want vouching.

Mr. Norman W. Sterling: He didn't want vouching?

Mr. Larry Johnston: No, not originally. He's changed his position.

Mr. Norman W. Sterling: Oh, he's changed his position.

Mr. Peter Kormos: There you go.

The Chair (Mr. Greg Sorbara): We've got flexibility here.

Mr. Peter Kormos: So after the fact, how do you determine whether or not a person has vouched for more than two people?

The Chair (Mr. Greg Sorbara): That would be an administrative responsibility of the deputy returning officer, because you have to be on the voters list to vouch for someone. So it can be noted on the voters list that: Mr. Smith has vouched for his wife and his son.

Mr. Peter Kormos: But you don't have to be in your voting area—I can vouch for somebody in a poll other than the poll that I vote in.

The Chair (Mr. Greg Sorbara): No.

Mr. Peter Kormos: Oh. Well, you see that changes the price of poker substantially then, because then this doesn't address, by and large, the phenomenon of, let's say, homeless people who probably don't know anybody.

The Chair (Mr. Greg Sorbara): Generally they do know people in their own communities—

Mr. Peter Kormos: Who are homeless.

The Chair (Mr. Greg Sorbara): No, in their own neighbourhood and community. Okay, we'll put that as a question as to whether—

Mr. Norman W. Sterling: What I find odd here—sorry to cut in—when we talked to the returning officers: We only have six returning officers, and it was probably, what, 60 or 70 that—

Interjection: Forty.

Mr. Norman W. Sterling: Out of 40, it was only six who talked about this: two saying, "Eliminate vouching," one saying, "Allow vouching," and three saying, "Allow one to do one on it." I would have thought, of all the

people who would have wanted vouching, it would have been them, in order to avoid identification issues at the polls. So I don't know how badly it's needed.

The Chair (Mr. Greg Sorbara): Well, this is something that we thought ought to have a role so that we avoid those rare cases where two people come in—they may be partners, they may be close friends—and one of them inadvertently does not have identification. It's not a big thing. It won't create stampedes of unidentified voters; it will just assist in the process.

Mr. Kevin Daniel Flynn: I think the report is clear on page 7. We're saying that many returning officers reported that contentious situations between election officials and electors could have been avoided. That, to me, is saying that people came in, attempted to vote and the returning officer probably thought they should have been able to vote, but the rules would not allow them to vote. They're saying that if you had clear rules, they would have been allowed to vote. So that, to me, is saying that more people who should be able to vote, would be able to vote, were this adopted.

Mr. Peter Kormos: There's no opposition to vouching—

The Chair (Mr. Greg Sorbara): So your issue: Is it just that you have to be in a poll to vouch or can you just be in the riding? That's a good issue and we'll—

Mr. Peter Kormos: If this isn't intended to address that class of persons who don't have ID, never mind forgetting it at home, then that's a different subject matter that hasn't been addressed yet.

The Chair (Mr. Greg Sorbara): Let's move on to "testing voting and vote-counting equipment, alternative voting methods."

Mr. Peter Kormos: No, no, no.

The Chair (Mr. Greg Sorbara): Mr. Kormos.

Mr. Peter Kormos: I was going to use several languages to try to show how clever I was in saying, "No, no, no."

Interjection: Can I read you—

Mr. Peter Kormos: I'll tell you why. The status quo is that by-elections can be used to test new techniques. The interest was, once again, one of uniformity, that in a general election—there was some acknowledgement of how in a by-election you can educate, you can focus, because everybody is focusing on that, assuming that there are only one or two, a maximum two or three at a time. But in a general election there has to be uniformity across the province as to how people vote. That was the rationale.

The Chair (Mr. Greg Sorbara): I want to once again point out to you the phrase in this proposal: "in consultations with political parties." In other words, the Chief Electoral Officer would bring all of the—I think just the main political parties together and say, "We're thinking of testing a vote-counting system or a vote-marking system. What do you think?"

Mr. Peter Kormos: Ah, but you see, I know so many of the government backbenchers who insist that they've

been consulted by the Premier's office before legislation is introduced. You'll note that—

The Chair (Mr. Greg Sorbara): We probably do a remarkable job of that, better than anyone has ever done it before in the history of the world, let alone the province. What other problem do you have with it?

Mr. Peter Kormos: The meter up on the wall is just bouncing right now. The polygraph needle is dancing.

Look, you've got the CEO—

The Chair (Mr. Greg Sorbara): I hear where you're coming from on this.

Mr. Peter Kormos: The CEO may test if party leaders approve. That's different than consultation. We're worried about the—

The Chair (Mr. Greg Sorbara): So you would like something with the approval of—

Mr. Peter Kormos: But that means you've got to go to any number of registered political parties, right?

The Chair (Mr. Greg Sorbara): With the approval of the presidents of three or more political parties—or do you just not like it at all?

Mr. Peter Kormos: Utilization in general elections, no sir.

The Chair (Mr. Greg Sorbara): I think number 7—I hope—could be really easy.

Mr. Peter Kormos: Commissions and committees?

The Chair (Mr. Greg Sorbara): Yes.

Mr. Peter Kormos: Yes, of course.

The Chair (Mr. Greg Sorbara): Okay.

Mr. Peter Kormos: The CEO probably has that power now.

The Chair (Mr. Greg Sorbara): Exactly.

Mr. Peter Kormos: It can do whatever it wants in terms of doing research.

Mr. Norman W. Sterling: I'm not in favour of this.

Mr. Peter Kormos: However, that's where we would like to see party participation.

Mr. Norman W. Sterling: No.

Mr. Peter Kormos: Oh, okay, sorry.

Mr. Norman W. Sterling: If you want to talk about committees to deal with any of these matters, come back to the Legislature and talk to the politicians.

The Chair (Mr. Greg Sorbara): Well, Mr. Sterling, I hear where you're coming from. On the other hand, Mr. Kormos is right that it probably happens anyway. It gives greater transparency to it because then it's more out in the open, and it has to be more part of the public record. I'm enthusiastic about the idea. We want that kind of investigation done. It won't change anything in the act.

Mr. Peter Kormos: Tell us—

Mr. Norman W. Sterling: He can march off into the sunset with this as far as I can see. He has paid boards, paid committees, paid commissions etc., and this thing starts to grow and grow and grow. He has commissions on how to get more people out to vote, how to better educate people about the elections etc. He's got a job to do: run a fair election with integrity.

He can have informal advisory committees if he wants. Nobody is going to say that. But why do you have

to formalize this in a piece of legislation? Then he's going to start formalizing their roles and all the rest of it, and it will run away from the political part of the process. The politicians here at Queen's Park should make these decisions going forward.

The Chair (Mr. Greg Sorbara): Mr. Kormos.

Mr. Peter Kormos: Can we revisit this?

The Chair (Mr. Greg Sorbara): Sure.

Mr. Peter Kormos: Because I'm prepared to address numbers 8 and 9 quickly. I don't know if Mr. Sterling is.

The Chair (Mr. Greg Sorbara): Okay, let's do 8 and 9 quickly if we can.

Mr. Peter Kormos: Number 8, yes.

The Chair (Mr. Greg Sorbara): Okay. Mr. Sterling, number 8?

Mr. Norman W. Sterling: I can't give it a yes now.

The Chair (Mr. Greg Sorbara): Okay. Number 9?

Mr. Peter Kormos: Of course, yes, assuming it's photo health cards.

The Chair (Mr. Greg Sorbara): Yes.

Mr. Norman W. Sterling: Did we decide what each elector is going to be asked when they come in?

The Chair (Mr. Greg Sorbara): No.

Mr. Norman W. Sterling: Okay.

The Chair (Mr. Greg Sorbara): But we can have a further discussion there. Here it's just a matter of having to get over some privacy hurdles to allow them to look at your picture on your photo card. I hear yours is very attractive.

Mr. Norman W. Sterling: I have no qualms about that.

The Chair (Mr. Greg Sorbara): You've no problem with that? Okay, good. So 8 and 9 we're okay with.

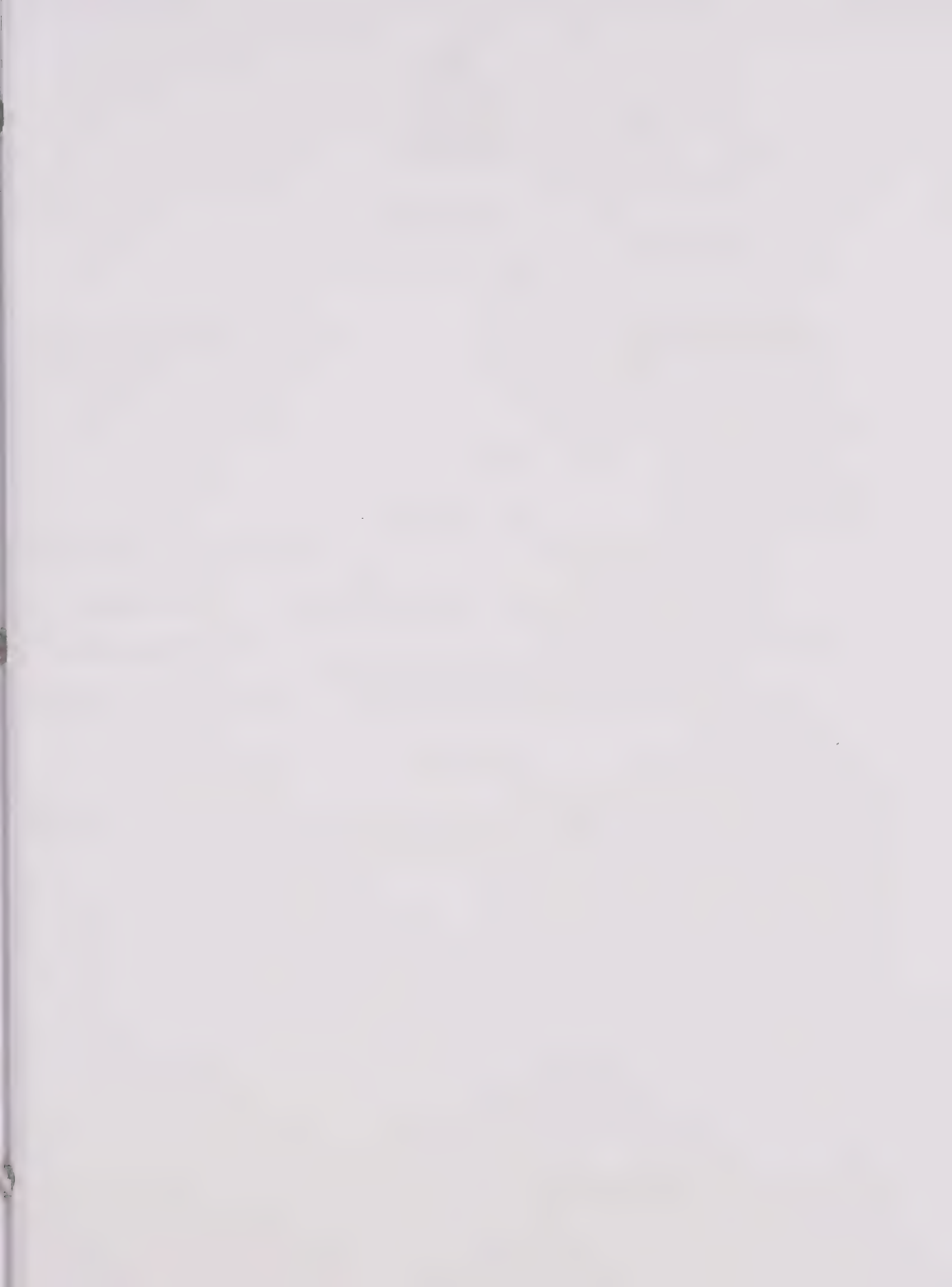
Mr. Peter Kormos: No. On 8, Norm—

Mr. Norman W. Sterling: I've got to talk again to my caucus on that.

The Chair (Mr. Greg Sorbara): Okay, the committee is now adjourned until Tuesday at 4 o'clock.

The committee adjourned at 1030.





CONTENTS

Thursday 26 February 2009

Subcommittee report.....	EL-37
Review of election legislation.....	EL-38

SELECT COMMITTEE ON ELECTIONS

Chair / Président

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Howard Hampton (Kenora–Rainy River ND)

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Norman W. Sterling (Carleton–Mississippi Mills PC)

Mr. David Zimmer (Willowdale L)

Substitutions / Membres remplaçants

Mr. Kevin Daniel Flynn (Oakville L)

Mr. Peter Kormos (Welland ND)

Clerk / Greffier

Mr. Trevor Day

Staff / Personnel

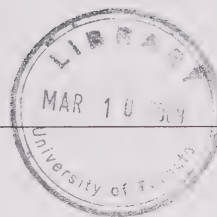
Mr. Larry Johnston, research officer,
Research and Information Services



EL-6

EL-6

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Select Committee on Elections

Review of election legislation

Comité spécial des élections

Révision de la législation électorale

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON
ELECTIONSCOMITÉ SPÉCIAL DES
ÉLECTIONS

Tuesday 3 March 2009

Mardi 3 mars 2009

The committee met at 1608 in room 228.

REVIEW OF ELECTION LEGISLATION

The Chair (Mr. Greg Sorbara): I now officially welcome you back and say we're glad to have you here.

Mr. David Zimmer: Thank you, Chair.

The Chair (Mr. Greg Sorbara): Although your colleague Kevin Flynn did a great job in your absence at our last meeting.

I have—

Mr. Peter Kormos: If I may, Chair, I want to commend Mr. Flynn as well and assure Mr. Zimmer that every time the Chair said something, he'd look at Mr. Flynn and Mr. Flynn would say, "I agree." He was impeccable.

The Chair (Mr. Greg Sorbara): No. He said, "I agree" when you said something, not when I said something.

Mr. Peter Kormos: It was like Edgar Bergen.

Mr. David Zimmer: I'm sorry if I caused any disruption here.

The Chair (Mr. Greg Sorbara): None whatever.

Mr. Peter Kormos: I missed you.

Mr. David Zimmer: I think the last time we had a telephone conference of this meeting, all I heard was Mr. Sterling speak, and then the next thing I heard was a lapping of waves on a dock. That's when I realized you were in the south.

Mr. Norman W. Sterling: That was my bathtub.

Mr. David Zimmer: I think, Mr. Chair, when you were speaking, I heard the ping of golf balls in the distance.

The Chair (Mr. Greg Sorbara): No, not me at all. You might have heard tennis balls.

Mr. David Zimmer: Tennis balls. Maybe that was it.

The Chair (Mr. Greg Sorbara): Just a couple of things before we continue through the set of recommendations that are before the committee.

The first thing that I would like to have agreement of the committee for is that we make public the documentation that is before us right now. Just for greater certainty, it would be the draft recommendations and legislation under my name, the report of the Chief Electoral Officer's submission to the select committee, the research piece dated January 20 by our research officer, Larry Johnston, and a follow-up research piece from Larry

Johnston dated January 22—that these be part of the public record of the committee. Is it agreed? Agreed. Okay.

Mr. Peter Kormos: Chair, if I may?

The Chair (Mr. Greg Sorbara): Yes?

Mr. Peter Kormos: Is there any way these documents are going to be available to interested parties via the Ontario government Internet site, as a hyperlink on the committee's—you're a select committee, not a standing committee.

The Chair (Mr. Greg Sorbara): That is a question that I would refer to the clerk. I have no idea about that.

The Clerk of the Committee (Mr. Trevor Day): What we can do is attempt to scan these and have them available in pdf as a link off of our site, as documents of the committee.

Mr. Peter Kormos: Which site would that be?

The Clerk of the Committee (Mr. Trevor Day): Under committees, the select committee has its own site.

Mr. Peter Kormos: Excellent.

The Chair (Mr. Greg Sorbara): The next thing I want to mention is apropos of our discussion on vouching, just to make a note that we had a discussion with Elections Ontario subsequent to that. This arises from Mr. Kormos's concerns specifically about populations that are without an address, that are homeless. Just to let you know, Elections Ontario has a very specific process, and indeed a fairly comprehensive process, serving electors who are homeless. I'm going to pass out copies of what is actually done to members of the committee and to the Chair, and this would be part of the public record as well.

Mr. Norman W. Sterling: Just by way of note, Mr. Chairman, I don't know what Mr. Kormos thinks about this, but I have no objection to the chief elections officer coming here and sitting here as a resource. He came to talk to me this morning; he requested a meeting with me. Obviously, the meeting emanated out of the Hansard of our previous meeting. He wanted to clarify some points. I found that very helpful in certain matters in terms of the mechanics of what some of the recommendations meant. So I have no objection. He might be helpful in terms of saying, "This is how this would work," or what the section would mean.

The Chair (Mr. Greg Sorbara): Well, that's a good point, Mr. Sterling. I have indeed said to him and to the people at Elections Ontario that we would urge and invite them to be present at our meetings, now open sessions

thanks to the wisdom of my friend from Niagara—Welland?

Mr. Peter Kormos: Centre.

The Chair (Mr. Greg Sorbara): Centre.

We will reiterate that. I don't think we need them at the table, but certainly monitoring these discussions would be very important.

I'm just informed by my assistant by way of the clerk that there is no one here today from Elections Ontario because of the by-election, preparing for that, but in subsequent meetings they will be here and available.

I wanted to mention, because we had an interesting discussion on committees and commissions, whether or not we put that in a statute or a recommendation—I think Mr. Sterling had some good points on that. Maybe I should do it by way of putting my personal aspiration before this committee. You may have heard it before. But I would like to see us in a position where Elections Ontario is so good at management of the raw data—that is, election lists—and the deployment of elections that they become a de facto back office for both federal and municipal elections, able to be a service organization. There is already a lot of interaction between Elections Canada and Elections Ontario; less so at the municipal level. But if we were to develop a state-of-the-art address authority and other technologies and voting mechanisms, it may be that Elections Ontario would be of greater service in the election process in Ontario, no matter at what level the election was taking place.

The other thing is that any commission or committee that the CEO were to establish, that work would be reported on in the annual report of Elections Ontario to the Legislature. So with that—

Mr. Norman W. Sterling: Let me, because I talked to the chief elections officer this morning and he's going to read my comments on this. He wants this very much, but he made it very clear that his notion was that some of these commissions and committees would be people who were paid for what they were doing. Quite frankly, my view is that the chief elections officer's primary goal is to run a by-election and an election; it's not to be out expanding his jurisdiction, to be involved in other elections or whatever. His primary function is Ontario and Ontario elections.

There's nothing to prevent him, without this power, from having voluntary committees, meeting with other people or promoting his particular way of doing things, but whether they would report to the Legislature in an annual report means nothing to me. We get oodles and oodles of annual reports from all kinds of commissions. I don't even open them, Mr. Chairman. I don't have time to open them. I'm not going to chase after what each of the committees or commissions that the chief elections officer could or couldn't create is going to be doing. I want a select committee or a committee of the Legislature—if there needs to be innovation or change, I want the politicians to be charged with involvement in those discussions. I want them to be at the head of the discussions. I don't think it should be a third-party legis-

lative officer who is driving those changes. That's my view.

The Chair (Mr. Greg Sorbara): I think that point has been made and obviously will be taken into consideration as we prepare our report.

Can I move to number 8 now? I'm on the draft set of recommendations. Number 8 is entitled "Clarify student residency," and it reads: "The act should make it easier for students to choose where they live for the purposes of voting."

Mr. Norman W. Sterling: We're against this, Mr. Chairman. We believe that a student residency is a temporary thing and that the residents of those communities should be deciding on their representation. The student, with mail-in ballots in particular, should have the ability to vote in their own constituency.

The Chair (Mr. Greg Sorbara): Mr. Kormos?

Mr. Peter Kormos: As I told you last week, we are far more benign about this proposal. Students may use their parental home base, because that's what you're talking about for all intents and purposes, but in fact, they are living in that university community. Mr. Sterling has university communities but I've only got Brock University. I'm very familiar with it, I think, the process of election. New Democrats believe that that's a reasonable proposal. So I don't know how you want to address this.

The Chair (Mr. Greg Sorbara): David?

Mr. David Zimmer: In effect, a student who is away from home attending a university—if the student is on their own without parental support, then they will choose their residence, wherever that may be. I don't see why a student who's old enough to vote ought not to be able to say, "My residence is my parents'," or, "I'm living in the city of Toronto at the University of Toronto."

1620

The Chair (Mr. Greg Sorbara): Yes. Notwithstanding Mr. Sterling's concern and perhaps the view of his party, this again would be one of those provisions which is permissive rather than prescriptive. In other words, it's not to say, "You're a student living at Brock University; you have to vote in the riding of Niagara Falls" or Welland or whatever it is; it's simply to say, "You can be enumerated there and vote there." Some students, every September, have a different residence at their university of choice. But some have a permanent address at their parents' place. Maybe the licence still has that address. But the fact is that, most of the year, they live in another place, in an apartment somewhere in the heart of the city of Niagara Falls. What we want to do is facilitate the enumeration of that student where he is at election time.

Mr. Peter Kormos: What's the default position? How would that work? Because you talk about an election by the student, which implies him or her doing something. What's the default position in the proposal, if the student does nothing?

The Chair (Mr. Greg Sorbara): If the student does nothing, the unfortunate likelihood right now is that he wouldn't get enumerated.

Mr. Peter Kormos: Quite right, but he or she could show up at a polling area.

The Chair (Mr. Greg Sorbara): And would have to show identification, including hydro bills, to show that they are resident in that area and they are who they say they are. The same with anyone who's not on the voters' list.

Mr. Norman W. Sterling: But you see, the student's health card is probably going to be tied to their parents' residence.

The Chair (Mr. Greg Sorbara): There's no address on a health card. A health card is just to identify an individual by way of photo ID.

Mr. Norman W. Sterling: No, but the registry is going to use the health card to find out where the people are.

The Chair (Mr. Greg Sorbara): Not necessarily. I think we're spending too much time on this. This isn't controversial. The idea is to get universities to provide better data to Elections Ontario about where students are living and determine whether or not they should be enumerated in that area. Simply, it's a facilitation mechanism.

Mr. Norman W. Sterling: But the election is early October, so you have a freshman come into the university who's in town for a month: What does he know about the community? Is he expressing the community's wishes when he casts or she casts her ballot?

The Chair (Mr. Greg Sorbara): The fact is that that's not absolutely true. That student may be in his fifth year of a doctoral program at Brock University. So yes, he arrives every September on September 1. In some instances, it might be his first year.

Mr. Norman W. Sterling: I prefer our solution.

The Chair (Mr. Greg Sorbara): This is just a facilitation mechanism. It may not even require a statutory amendment.

Let's go on to number 9: identification and the use of health cards for that purpose. Any comment there? Any negative views?

Mr. Peter Kormos: We indicated last week that we support that proposition enthusiastically. Of course we mean photo health cards.

The Chair (Mr. Greg Sorbara): Photo health cards, yes.

Did we discuss, last time around, the use of polling locations, because my assistant told me to start at number 7 and—someone should help me out here.

Mr. Peter Kormos: We did 8 and 9.

The Chair (Mr. Greg Sorbara): That's right. We did, of course, because we're repeating some of it. But I'm recalling a discussion on the use of schools as polling locations, so I'll just put it to you again. Any issues or discussion on that?

Mr. Norman W. Sterling: On what?

The Chair (Mr. Greg Sorbara): The use of schools as polling locations. And this is not for legislative change; this is just—or we might put something stronger in the legislation. There is increasing resistance from

school boards and school principals to have these ragtag elections take place in their gymnasiums and compromise the safety of their students.

Mr. Norman W. Sterling: I would only agree that the last election was a ragtag election, with the wrong results.

The Chair (Mr. Greg Sorbara): You don't think the government got enough seats? Is that what you're putting to this committee? Because I tend to agree with you.

Mr. David Zimmer: I think there's a grammatical error in that thing: "... to build stronger support with school boards for ongoing use of schools"—

Mr. Norman W. Sterling: What number are we dealing with here?

The Chair (Mr. Greg Sorbara): Number 1 under "Recommendations," page 2.

Mr. Peter Kormos: I'm on page 2; there's 8 and 9.

Mr. David Zimmer: I've got something on page 2: "Recommendations:

"1. Use of schools as polling locations."

The Chair (Mr. Greg Sorbara): I'm going to try to help the committee out by reminding them that we are looking at the confidential memorandum from me, dated Tuesday, January 20: "Draft—recommendations and legislative changes."

Mr. Peter Kormos: I'm looking at Larry Johnston's proposal, a research paper which he has identified very clearly as being the government's shopping list. Am I misstating anything?

Mr. Larry Johnston: The recommendations are at the end.

Mr. Peter Kormos: And the school recommendations are on page 4. We're working from two different documents here.

The Chair (Mr. Greg Sorbara): I am inviting you to work from the document that the Chair is working from.

Mr. Peter Kormos: If I had it. I like the Chair, and I've known him for a long time, but I know Mr. Johnston to be an impartial and authoritative source of information. Here we are. Thank you very much.

This is a draft. Why are we working from a draft when Mr. Johnston has the finished product?

The Chair (Mr. Greg Sorbara): I'm going to assume, unless I hear to the contrary, that there's no controversy or disagreement with this provision on the use of schools as polling locations.

Mr. Peter Kormos: We agree with the proposal.

The Chair (Mr. Greg Sorbara): Good.

Mr. Norman W. Sterling: There's no legislation around this, is there? I mean, this is just a choice that's being made. Isn't there something in the legislation which forces the school board to provide the schools?

Mr. Larry Johnston: The CEO can require the use of schools, yes.

Mr. Norman W. Sterling: I thought the question was whether or not we were going to give some legislative authority to create a PD day.

The Chair (Mr. Greg Sorbara): It's not going to happen. Let's put it this way: Elections Ontario would much prefer that election day be a PD day, a provincial

holiday or that voting take place on a Saturday or a Sunday or a day when schools are not in session.

Mr. Norman W. Sterling: Right.

The Chair (Mr. Greg Sorbara): It is clearly the government's view that that's not going to happen. We are not going to create a PD day. We are not going to create another holiday and we are not going to move to a weekend election process.

Mr. Peter Kormos: Why is there so much deference to Elections Ontario in so many areas, but when the government says it doesn't want to do it, Elections Ontario's view is deemed irrelevant?

The Chair (Mr. Greg Sorbara): It's not irrelevant. It's a very interesting position. We have done a great deal of research on the impact of another holiday or a PD day. The government's position is that the best answer is to strengthen the relationship, might I put it that way, between Elections Ontario and the school board system to facilitate the use of schools.

Mr. Peter Kormos: So when the government agrees with Elections Ontario, Elections Ontario is right. If the government disagrees with Elections Ontario, Elections Ontario is full of hooley.

The Chair (Mr. Greg Sorbara): That's exactly right. You've hit the nail on the head.

Mr. David Zimmer: Or, as Mr. Sterling would say, it's important for the politicians to stay in control here. Like you said earlier, Mr. Sterling.

Mr. Norman W. Sterling: Why don't we just say that one of their PD days will be on election day, whatever they have in their contract?

The Chair (Mr. Greg Sorbara): It's not going to happen, and Elections Ontario is not full of hooley, as Mr. Kormos would put it—

Mr. Norman W. Sterling: Why not? If we are in control, why can't we do that?

1630

The Chair (Mr. Greg Sorbara): They have an interesting perspective on this. The government has a different perspective.

The answer to your question, in simple terms, is: That would basically have the government intervene into the collective bargaining decisions of school boards and teachers in respect of PD days, and we are not prepared to do that.

Mr. Peter Kormos: I suppose I should make the further observation, although I've noted this to be the case early on in this committee process—this committee process is not a consensus-building process.

The Chair (Mr. Greg Sorbara): You are wrong there, and that's the first time, I think, since the beginning of the calendar year. This is a consensus-building process.

Mr. Peter Kormos: Okay, but if the government doesn't agree with the two opposition representatives—

The Chair (Mr. Greg Sorbara): It will be there that the consensus ends.

Mr. Peter Kormos: The government will prevail.

The Chair (Mr. Greg Sorbara): That's right.

Mr. Peter Kormos: I've got to tell you this—we've got time. As you know, I was in cabinet for a short while in that notorious Rae government, and Frances Lankin was the chair of cabinet. We'd go in there and I'd see the discussion drifting away from the original proposal, and I'd see Rae nod to Lankin that he wanted to speak, and I was able to say, "Oh, oh, watch it. There's a consensus coming," which of course endeared me to my dear old friend Bob Rae. He thought that was a delightfully witty observation.

The Chair (Mr. Greg Sorbara): My experience is that cabinets have unique ways of voting to a resolution of the issue before it.

Mr. Peter Kormos: Sometimes it's that the majority rules; sometimes it's, "Let's build a consensus," and sometimes it's, "Because I'm the goddamn Premier, that's why."

The Chair (Mr. Greg Sorbara): Pretty much, those three capture all decisions.

The second category of proposals come under the heading "Improving the Voters' List." The proposed legislative change is the creation of an address authority. I think we've had some discussion about this. I should tell you that I am awaiting a discussion with the people at the Municipal Property Assessment Corp., which is the entity identified as most appropriate in creating such an address authority.

Mr. Peter Kormos: My folks darn near swallowed their bubble gum when they saw MPAC down there. They—

The Chair (Mr. Greg Sorbara): That's just a silly bias, with all due respect.

Mr. Peter Kormos: Oh, really? They're understaffed, under-resourced—

Mr. Norman W. Sterling: —and they're controlled by the municipalities. MPAC is a municipally controlled corporation. It's not controlled by the province. Why MPAC? What's the reason?

The Chair (Mr. Greg Sorbara): Here is my response: that once we have received some assessment of this idea from MPAC, we invite MPAC to come before this committee to talk about what work might be involved. To me, it just makes sense that an entity in the province be responsible for bringing a standard process for identifying the address of properties, and the fact is that the only organization in the province which has a comprehensive list of all properties in the province is MPAC. There's no other entity that does that.

Mr. Peter Kormos: The caucus was interested in the proposal, but again, just immediately, it was like putting an aluminum pie plate in your microwave oven. The sparks flew.

Let me query this, because it was made clear: This isn't about identifying voters; it's about identifying addresses.

The Chair (Mr. Greg Sorbara): That's right.

Mr. Peter Kormos: It has nothing to do with identifying voters.

The Chair (Mr. Greg Sorbara): That is right.

Mr. Peter Kormos: That's number one. Number two: Why is MPAC the only authority? How do GPS services, for instance, identify addresses? Do they use Teranet's database? My little \$200 machine seems to do a pretty good job—although it doesn't do apartments, to be fair.

The Chair (Mr. Greg Sorbara): They probably contract a lot of the data from MPAC, as does Teranet. There is a data-sharing relationship between Teranet and MPAC. The GPS authorities are private entities that purchase data from these entities.

Probably, to help the committee and to help this committee's chair understand what the implications of creating an address authority are, we ought to have a discussion here and we ought to have some material. What is driving this is a higher-quality voters' list and a better ability to link an address, particularly a rural address, with an appropriate poll. The complaint we hear, particularly in rural areas, is that because the only address available to Elections Ontario is RR4, Thornbury, Ontario, often the voters at RR4, Thornbury, Ontario, are placed in a poll where the polling place is 25 kilometres away from the address. That's the mischief we're trying to come to grips with.

Mr. Peter Kormos: Why wouldn't Elections Ontario perform this role?

The Chair (Mr. Greg Sorbara): Because they just don't have the capacity to do it. An address authority deals with parcels of land, and MPAC's database is essentially a database with all the parcels of land in the province.

Mr. Peter Kormos: The Quebec model that is referred to, where the legislation requires various public bodies to provide information to, I presume, their address authority—MPAC could be required to produce its information. Canada Post has a pretty good database. You can punch in an address and get a postal code, among other things.

Mr. David Zimmer: Let me ask this question: Presumably, you'd have no objection if the elections people were asked to do that, and they'd probably end up picking up the phone and calling MPAC and saying, "Give us your data." Maybe it's just a question of nomenclature.

Mr. Norman W. Sterling: Does the address authority—we're going to give some authority to somebody to look at health cards and correlate the addresses of people on those to try to get the best possible information as to where everybody is. Where's the information drawing to? I thought that would be the address authority, who would then, as a fait accompli, present it to the chief election officer.

Mr. David Zimmer: The authority would be something under the—

Mr. Norman W. Sterling: Larry, do you know how they do it in Quebec?

Mr. Larry Johnston: My understanding is that the address authority in Quebec is the electoral office. It's essentially two databases: One is a geographic database, and the other is a database of addresses. Most of the

address information comes from the health insurance body and other provincial ministries, including the automobile insurance as well.

Mr. Norman W. Sterling: That's what I thought. So when I saw MPAC—

Mr. Larry Johnston: MPAC's role, as I understand it, would be to provide the geographic database—but that would not necessarily provide information in terms of who is resident at those addresses—so that there's one, unique address for every location in the province. MPAC is one possible source to construct that geographic database.

Mr. David Zimmer: What there would have to be is a database that has all the addresses in the province, and then somehow the elections people have to figure out who's living at that address. All we're asking for here is a list of the residential properties in the province, if you will, and somebody's got to figure out if there's one person or two there and who they are.

Mr. Norman W. Sterling: Part of the Chair's argument about the address authority was that the address authority would present this information for municipal elections, with which I agree, or federal elections if they want to use that information as well. Where do they go to get that? Do they go to the chief election officer or do they go to MPAC? I would think that MPAC is the address authority's principal supplier of information. I don't mind legislating that they have to share that information with the address authority, whether that's the chief election officer or a third party.

Mr. David Zimmer: That's what I thought. So you guys over there agree that we ought to be able to somehow access the information that MPAC has, and it's a question of how to get that information.

Mr. Norman W. Sterling: Oh, absolutely.

1640

The Chair (Mr. Greg Sorbara): And the fact is that all that happens now. For our purposes, the list of electors is the result of data-gathering from a wide variety of sources: from Revenue Canada—taxpayers will often check that little box saying, "Use this to get me on the voters' list"—the driver's licence system, MPAC, not health cards right now but other registers with sophisticated databases within the province. Elections Ontario gathers all that data and generates a preliminary list of electors.

This business of an address authority is not to totally transform that; it's to bring clarity and uniformity to an address system in Ontario. People have an address for post office purposes or for their driver's licence. Maybe the address is somewhat different for property tax purposes. Some people live on streets that have two or three names. So it's to bring standards to determine how to establish an address.

One example you may not know about is that right now, one of the best authorities for addresses in Ontario is the Ministry of Health 911 response system. Because you have to get there within two minutes, it's not much good if a call comes in and, "Where do you live?" "Well, I'm on RR1, Thornbury."

It's just to standardize this process, but I suggest that we not go much further down this route without having a good discussion with the president of MPAC, who is a great deal more authoritative on address authorities than I am.

Mr. Peter Kormos: I'd also like to have a similar discussion, one way or another, with the Quebec address authority. In your somewhat more expanded proposal in your paper, as compared to the list that was provided to Mr. Johnston, you say that the address authority, MPAC, would provide addresses to the Chief Electoral Officer, and then the Chief Electoral Officer would overlay this data with the data from provincial suppliers of information, which include the Ministry of Transportation etc. So MPAC, as you propose it here, isn't really the address authority; it's one source of address information provided to the Chief Electoral Officer, who then overlays it with all the other sources. So they in fact are the address authority.

The Chair (Mr. Greg Sorbara): MPAC would be the address authority.

Mr. Norman W. Sterling: That's what I'm having difficulty with. I'm having difficulty with who is collecting the formation. Who goes to the post office? Who goes to Revenue Canada? Who is collecting that information? I would like one authority to be able to do that. I don't know whether or not that's MPAC's business. MPAC's business is really talking about property owners and geographical areas and that kind of thing. We're talking about a much larger part of the population, in terms of an address authority; we're talking about trying to bring all of these together.

I guess the last point is that I don't know whether Dr. Cavoukian would have some opinion on this, and I'd like to know what that opinion is. What is the safest way that we can get the best information in the hands of the chief election officer and ensure that certain parts of the information are not transferred, and what protects the privacy of people the best we possibly can?

That's my problem. I'm not arguing against the concept of having it and trying to use this information, as long as it respects the privacy of people, and getting it there. I always thought that the chief officer would be the address authority.

The Chair (Mr. Greg Sorbara): A final comment on this, and then I'm going to suggest that we defer it until we see if we can hear from MPAC more directly and answer all these fascinating questions. Mr. Kormos.

Mr. Peter Kormos: I'm looking at Mr. Essensa's recommendations, page 19, and he talks about an address authority; he doesn't mention MPAC.

The Chair (Mr. Greg Sorbara): Right.

Mr. Peter Kormos: I recall—and correct me, help me—when Hollins was here, he spoke of the same thing, if I recall correctly, and he never mentioned MPAC. Maybe we should specifically ask Mr. Essensa for some elaboration.

The Chair (Mr. Greg Sorbara): I think that's fine. However, in my discussions with Mr. Essensa, it was

clearly his view that this is something that MPAC would have to do, unless you re-created MPAC and somebody else also had a comprehensive list of all properties in the province. Okay?

Mr. Norman W. Sterling: I need clarity on who's going to have access to the health information.

The Chair (Mr. Greg Sorbara): Who's going to have access to what?

Mr. Norman W. Sterling: The health information, the revenue information, that kind of thing. Is it the chief election officer or is it MPAC?

The Chair (Mr. Greg Sorbara): The information derived from the Ministry of Health, from health cards, would be for the chief election officer only, not for MPAC. It may be that MPAC, if it creates an address authority, would notify Mr. and Mrs. Smith, whose address on their health card or in the health card information is RR4, Thornbury, that henceforth on their health card their address is going to be 2515 County Road 12, Thornbury. That's what MPAC would do to standardize the address for that property for all government purposes. Okay?

Let's go on to number 2—equally controversial, I think, for my friend Mr. Sterling: "Ensuring consistency of language by removing references to enumeration and replacing with targeted revision."

Mr. Peter Kormos: This was strongly resisted by the NDP. I explained to them, and they understand from their own experience of, let's say, working in elections, about the diminishing returns, as the years go by, of door-to-door enumeration/canvassing. But the elimination of enumeration was highly, highly offensive to them.

The Chair (Mr. Greg Sorbara): Do they know that we haven't done enumerations in Ontario for quite some time?

Mr. Peter Kormos: We're well aware of it. When we see the voters' lists that show up in consecutive elections, the failure to enumerate is apparent.

The Chair (Mr. Greg Sorbara): I know that, notwithstanding their views, you will be supporting this provision.

Mr. Peter Kormos: You know that, do you?

The Chair (Mr. Greg Sorbara): Yeah, because you are a man of wisdom and you understand that we're just clearing up language here.

Mr. Peter Kormos: Yeah, well, I also know bullshit when I hear it.

Mr. Norman W. Sterling: Tell me what the difference is. What are targeted revisions?

The Chair (Mr. Greg Sorbara): Targeted revision is simply this: In the riding of Vaughan, since the last election, there have been four new subdivisions built, totalling 3,000 households, and the only effective way of getting information is to target that area and go in and do classic enumerations, to ensure that the voters' list is as accurate as possible.

Mr. Norman W. Sterling: We have some resistance to it, but I don't know—you can't enumerate many—

The Chair (Mr. Greg Sorbara): Exactly.

Mr. Norman W. Sterling: You could do it in some ridings, but you can't do it in others. That's the problem. It's just an impossible task.

The Chair (Mr. Greg Sorbara): Okay. I'm now going to—

Mr. Peter Kormos: In that regard, then, are there people who have considered—you say you want to enumerate a new subdivision, but in theory, the same methods of capturing those voters that apply to an old part of town should apply to a new part of town, right?

The Chair (Mr. Greg Sorbara): Yes, that's exactly right.

Mr. Peter Kormos: But yet you say you have to enumerate the new subdivision to get accurate voters' lists.

1650

The Chair (Mr. Greg Sorbara): No, I'm not actually saying that. What I'm saying is that in a pre-existing area of the riding of Vaughan, the quality of the voters' list is relatively good with no enumeration at all. That is, we've got a list from last time and we've got new data coming in from the department of highways, new data coming in from Revenue Canada, so the, let's call it, electronic revision of that area is pretty good.

In a new subdivision, that is probably not the case. People have moved in there too recently; there's not enough data from other sources, including the list from the last time around, to get very many people. Even when one does an enumeration in one of those new areas, because of the same problems of, "No one's home and you go back three times," typically the list for the first election after the creation of that subdivision is not of a high quality.

Mr. Larry Johnston: I would just note that the act does permit the CEO to conduct a targeted registration program for any electoral district or any part of an electoral district, including a building with multiple dwelling units, as the CEO considers desirable. It could be an established part of the district; it could be a district which is identified as having a high turnover of residents; it could be any number of reasons why a selection or even an entire district is the target of a targeted registration.

Mr. Norman W. Sterling: I guess my concern here is, it's the CEO who is given this power, and how do we ensure that the CEO responds to the returning officer, who is saying, "I'm getting deluged with calls from subdivision X or condo building Y, which in the last election was a complete mess"? That's the problem that I face. The returning officer says to me, "Norm, we know we have trouble out there, but I don't have the money to send the enumerators out."

Mr. Peter Kormos: Yes, and that's exactly the point. Mind you, the returning officer, with the professionalization and secularization of returning officers, is going to be less inclined to do that than a political appointee because they're part of the team. They want to keep their job. Isn't that—

Mr. Norman W. Sterling: That's true.

Mr. Peter Kormos: I think there'd be, in some cases, the risk of an inherent bias against requesting enumerations because of the expense. By the time the election happens, of course, it's too late. You're right: It's after an election has been followed up. But we saw, with all due respect to Mr. Hollins, an incredible disconnect from the Chief Electoral Officer in the last provincial election with what was happening out there on the ground. There were all sorts of horror stories in every riding that I'm familiar with, and not just isolated instances. There seems to have been a complete disconnect. So I'm worried about that flow of information as well, and the absolute and discretionary authority. How do you build some minimum standards in there and say, "But in these instances, there shall be"? I appreciate that's difficult; not easy.

Mr. David Zimmer: It says in number 2 of the recommendations, "Ensuring consistency of language." That's all we're trying to do here, as I read that.

Mr. Peter Kormos: A little misleading, isn't it, Mr. Zimmer?

The Chair (Mr. Greg Sorbara): We're just trying to get some clarity in the act with appropriate language. The issues that you raise, I'm sure Elections Ontario will have some responses to as they review the Hansard of this committee, so I suggest that we leave it at that and then move on.

The recommendations: There's actually only one of them. This would not result in legislative change, but it is really about greater co-operation between Elections Ontario and the Ministry of Training, Colleges and Universities and colleges and the universities "to develop a standardized communications outreach strategy to post-secondary education students," including the ability of Elections Ontario to get a list of students at the beginning of the school year so that Elections Ontario can write to them and invite them to register to vote.

Mr. Peter Kormos: You're speaking of only post-secondary?

The Chair (Mr. Greg Sorbara): Yes.

Mr. Peter Kormos: Why not secondary?

The Chair (Mr. Greg Sorbara): Because the vast majority of secondary students have not yet reached voting age—the vast majority.

If there are no comments, I'll go on to page 3 and—

Mr. Peter Kormos: We don't quarrel with that.

The Chair (Mr. Greg Sorbara): I'm sorry?

Mr. Peter Kormos: We don't quarrel with that proposition.

The Chair (Mr. Greg Sorbara): We agree with that? Okay.

Then we will move on to page 3 and a discussion on "Professionalization of Service Delivery."

The first proposal, under "legislative changes," is "depoliticization of election workers"—that is, "deputy returning officers and poll clerks." I think the proposal coming out of Elections Ontario is that we just have one category and call them "poll workers"—"election workers."

Mr. Peter Kormos: We generally agree with that. However, there are concerns about the manner in which a person is removed from that position—the means whereby, let's say, people in a community can raise issues or concerns about a poll worker, if that's the proper language.

The Chair (Mr. Greg Sorbara): "Election worker."

Mr. Peter Kormos: "Election worker," yes. What's being considered? In definite terms, what's the process of firing one of these people?

Mr. David Zimmer: I thought the whole idea was to turn it over to the CEO to hire the election workers, figure out a pay schedule for them, train them, fire them and all of that sort of stuff, so that, in fact, we could use all those good people on our campaigns.

The Chair (Mr. Greg Sorbara): Yes. The essence here is that there is a stupidity in the act for modern elections requiring a returning officer to wait until 10 days before an election to get a list of proposed poll clerks from campaigns.

Mr. Norman W. Sterling: I don't think we have any objections to the first two. It's when you get to the appointment of the returning officer that—

The Chair (Mr. Greg Sorbara): Okay. So there is an agreement there.

To answer Mr. Kormos's question, the idea is to develop or incorporate Management Board of Cabinet standards dealing with the employment relationship. I don't think there will be any new proposals or new employment laws dealing with the firing or the dismissal of an election worker, but for all practical purposes, it doesn't happen because there's not enough time—because the period is so short. But if an election worker is hired and three days later he or she commits an egregious offence, that election worker would be dismissed.

Mr. Peter Kormos: Right.

The Chair (Mr. Greg Sorbara): Okay, and the removal of the schedule of fees—I should point out there, in number 2, that it's about developing a schedule of fees that reflect the standards of the Management Board of Cabinet, and, frankly, with a pay scale that actually allows you to develop that large, urgent workforce.

Number 3 is about returning officer appointments. Historically, returning officers have been appointed by cabinet. The proposal here is to continue the appointment of returning officers by way of order in council, based on recommendations from the chief elections officer.

Mr. Peter Kormos: This is even dicier, because it's an OIC that appoints them. What is the process, again? Does the CEO recommend a similar order in council terminating the RO's position?

The Chair (Mr. Greg Sorbara): Again, if there is activity warranting dismissal, it would be done by an order in council on the recommendation of the CEO.

1700

Mr. Peter Kormos: With respect to 2, you're recommending that the CEO establish the wage scale. Why wouldn't or couldn't that be done by regulation?

The Chair (Mr. Greg Sorbara): I think it would be done by regulation, on the recommendation of the CEO. There would be a mechanism—it's not whatever pay scale. We'll flesh out those details, and they would be by way of recommendation. But right now, the fees are set in the act, and in practical terms, it's very difficult to find a competent workforce at the schedule of fees as they exist right now.

Mr. Peter Kormos: Again, the order in council would be an appointment for life, an appointment up to the age of 65—

The Chair (Mr. Greg Sorbara): Of the returning officer?

Mr. Peter Kormos: Yes, of the RO.

The Chair (Mr. Greg Sorbara): My expectation is that it would be for a period of time, perhaps three or four years, with the opportunity and the likelihood of renewal.

Mr. Peter Kormos: That's interesting, because surely you would want them—you see, when you get to orders in council, there's an element of politicization. Is that fair?

The Chair (Mr. Greg Sorbara): It gives the final appropriate political touch to the selection process.

Mr. Peter Kormos: Well, okay. Mr. Sorbara smiles as he—

The Chair (Mr. Greg Sorbara): For the record, Mr. Sterling is—

Mr. David Zimmer: Hiding his face.

The Chair (Mr. Greg Sorbara): —hiding his face from this committee.

Mr. Peter Kormos: Because he knows, too.

Wait a minute. I thought we wanted to develop positions like ROs who were going to work for a considerable period of time, assuming their competence in that riding. That's a very valuable thing. They'd acquire familiarity with the riding, with earlier election experiences. You don't see a change in returning officer with a change in the Chief Electoral Officer. You don't see a change in the returning officer with a change in the government. Heck, down where I am—I think you know Helen Durlley, whom I love dearly, who has been very supportive of me, but a good Liberal. She was running damned good elections well beyond the age of 65. That's why it seems to me that if this is important, we should be wanting to create ROs who have lengthier tenures than three or four years.

The Chair (Mr. Greg Sorbara): Yes, I agree with that. I have no problem with that. You want to develop, particularly given this new world of fixed election dates—again, my dream is that we have a team of returning officers who are competent to do the Ontario election and maybe the federal election, and be a senior adviser on a municipal election just because they're very good at it. So, a set of standards established for the position by the chief election officer, interview, vetting, maybe some testing, and then appointment by order in council, which I think simply allows the political perspective to say, "Oh, my goodness. You know what? I know that person, and frankly, he is too deeply committed to a political

party"—or something happened. It's a vetting process, much like the way in which we now appoint people to the Ontario Municipal Board. It's all about getting a professional staff.

Mr. Peter Kormos: Oh, Mr. Sorbara. Please. Come on. I didn't just fall off a turnip truck.

The Chair (Mr. Greg Sorbara): I'm telling you, I've been there on the OMB stuff, on the appeals board of the workers' safety and appeals tribunal.

Mr. Peter Kormos: If we're talking about depoliticizing it, why is there still an order in council involved, which is a very political act?

The Chair (Mr. Greg Sorbara): Right. That's exactly right.

Mr. Norman W. Sterling: I support an order in council because, quite frankly, I would rather have a Liberal or an NDP competent person who knows what elections are about than have an academic trying to run the show—who understands that you've got to get down and dirty in terms of dealing with staff and you've got to work your butt off 24 hours a day in terms of running an election.

I think that that's the other part too: No cabinet would ever appoint somebody who was not respected in the community. You can't necessarily always tell that in terms of the paper that's presented. Some people can have tremendous formal qualifications, but if the person you appoint as a returning officer is not respected in the community in terms of keeping their word and is known as—now, the one thing, and I talked to the chief election officer about this this morning and I think we should consider this: I think that there should be some discretion given to the CEO within a certain time frame in front of the election where he can appoint a returning officer without an order in council. So that if he's faced, let's say three months—that's the number I thought of—whereby somebody was too sick—

The Chair (Mr. Greg Sorbara): Somebody dies.

Mr. Norman W. Sterling:—somebody dies or resigns or whatever it is, we're into the summer period, cabinet is not meeting for two weeks, whatever—I believe that there should be some discretion given to him to make some unilateral decisions within the short time frame before the election.

The Chair (Mr. Greg Sorbara): I think it's an interesting suggestion. I would point out that my own experience within the cabinet context is if someone is available to replace someone who is no longer available, an order in council can be expedited as quickly as eight hours.

Mr. David Zimmer: I think this idea of delegating to the CEO the hiring of these people to run the show is a good one. The CEO makes the recommendation to the government, which does an OIC. It's inconceivable to me that the CEO would not put forward quality people. Frankly, I would be very surprised if any of those names that came forward on recommendation by the CEO would not be routinely put through as an OIC.

But having just that bit of a safety valve—as Norm has said, the last step is the political dotting of the "I" and

crossing of the "t"—is a good one. In the last analysis, the authority rests with the government.

Mr. Peter Kormos: I'm not going to flog this one.

The Chair (Mr. Greg Sorbara): Okay. Let's invite you, then, to flog the next one.

Interjection.

The Chair (Mr. Greg Sorbara): Oh, Norm is going to flog this one.

Mr. Norman W. Sterling: What happens when we get into the throat of the election, two or three months in front, and he finds out that a certain RO just is not responsive? What are his options at that point in time? Does he go back to cabinet and say, "You've got to make an argument and get an order in council to get rid of him"?

The Chair (Mr. Greg Sorbara): I think we will hear from Elections Ontario on that by way of response to the question, but I'll tell you what I know. If it's a matter of recruiting another returning officer and there's plenty of time, that issue would come back to cabinet. But you can be sure that there have been a number of instances over the past five or six elections where the returning officer was a disaster. As a practical matter, a team is sent in from head office to just keep the ship sailing until the election is over.

Okay. Redistribution of ridings. The proposal here is—

Mr. Peter Kormos: Hold on, because I'm trying to jibe your draft draft—your draft—with the formal document prepared by Mr. Johnston. Where are you now?

The Chair (Mr. Greg Sorbara): Just as you're—

Mr. Peter Kormos: Page 3?

The Chair (Mr. Greg Sorbara): We are at page 3.

And there is commentary and authority—not draft, but authority—from our researcher, Mr. Johnston. The proposal is really quite simple. It's about establishing a permanent boundaries commission—and I'll just read through here—"comprised of the Chief Electoral Officer, a justice of the Ontario Superior Court, and an academic, who will, using the coterminous federal boundaries as a baseline, on a regular, established schedule, review any special requirements that the province may have to ensure that the principle of effective representation of electors is respected."

1710

By way of commentary, we do not have a statutory direction to tell us what the boundaries of our ridings will be when the federal boundaries change, so we need to deal with this issue of boundaries. The proposal here is that the baseline is that we use the federal boundaries, that we remain coterminous. So, as a practical matter, we would adopt those boundaries after the first election in which the federal Parliament used those boundaries, but we would have the authority, through a boundaries commission, to adopt those coterminous boundaries, subject to variation to achieve provincial objectives, including more representation in the north, as we have now.

Mr. Peter Kormos: This was a very contentious proposal in my caucus. First of all, we didn't know the

extent to which the federal boundaries being used as a baseline—how influential that was. One of the things we wanted to see was an example of the statutory language.

The Chair (Mr. Greg Sorbara): Yes. I think we'll have the further debate when we get the statutory language, but from my perspective as the one who is actually the drafter of these draft, draft recommendations, my view is that the federal boundaries dictate, by and large, what the boundaries are but, as we did when we adopted the federal boundaries last time, we made a provision to maintain one more riding in the north. The idea is to find statutory language to allow that to happen, and my perspective is that the voters love this. That is, the voters themselves want us to continue to have coterminous boundaries.

Mr. Peter Kormos: The other issue was the panel. There was concern about the CEO, the Chief Electoral Officer, being on that panel as compared to merely receiving the recommendations. Is it recommendations—which, of course, have to be enacted—or is it delegating the authority—

The Chair (Mr. Greg Sorbara): No, no, no. It's recommendations, which would then come before the government and be presented to the Parliament by way of a bill. The boundaries have to be established under the proposed act by way of law.

Mr. Peter Kormos: Quite right, but the legislation wouldn't say that the Parliament "shall" adopt the recommendations.

The Chair (Mr. Greg Sorbara): I would be very surprised to see that.

Mr. Norman W. Sterling: How do they do it federally? There's quite a bit of power in the boundaries commission in the federal Parliament. When there's a redistribution, there's always an outcry.

Mr. Larry Johnston: It's quite a detailed process that's outlined.

Mr. Norman W. Sterling: Yeah. I have a bill in front of the Legislature establishing a permanent boundaries commission, as we are the only jurisdiction in all of Canada that does not have one. Quite frankly, my reading of the law was that the act which you passed which allowed the northerners to be overrepresented in relation to southerners probably would not have withstood a constitutional challenge because you were not within the boundaries of the law in terms of the variations that were there. When you establish a boundaries commission, you're turning it over holus-bolus to them unless you try to allow a sleeve of 30% or 40%, which probably wouldn't stand up to a constitutional challenge. All of the other jurisdictions have a sleeve of 25%, and your sleeves to allow 11 representatives to stand up north were 34%, 35% in terms of what they were doing now. The next redistribution will probably take care of that because the number of seats is going to dramatically increase in Ontario.

The Chair (Mr. Greg Sorbara): So what you're telling me is that the policy—

Mr. Norman W. Sterling: I'm in favour of a permanent boundaries commission.

The Chair (Mr. Greg Sorbara): It's the policy then, what you're telling me, of the Progressive Conservative Party that the people of northern Ontario are overrepresented in this Legislature?

Mr. Norman W. Sterling: No.

The Chair (Mr. Greg Sorbara): I'm just kidding.

Mr. Norman W. Sterling: Our position was this: If you wanted 11 representatives in the north, you had to increase the representation in the south in order to allow it.

Here's the thing: I was the guy who changed this law in 1996 when I told Mike Harris that this was what we should do in taking the number of seats in the provincial Legislature down from 130 to 103. Peter is looking at me askance, but I thought it was the right thing to do at the time. There are only two times we've had a contraction in the number of seats: in the 1930s and when we did it after the 1995—

The Chair (Mr. Greg Sorbara): And it was very well done.

Mr. Norman W. Sterling: It was done—

The Chair (Mr. Greg Sorbara): Politically difficult; well done. Very popular.

Mr. Norman W. Sterling: It's much easier for the residents to understand. They have one federal member and one provincial member and they live in whatever riding it may be.

I just don't think that the work of the provincial boundaries commission should be that great. If you take the federal boundaries after they've gone through an exhaustive process—it is an exhaustive process if you look at the federal boundaries commission. My feeling was, it was kind of useless work. If you give the federal boundaries commission reasonable rules to work with, they're going to come—

Mr. David Zimmer: But with respect, the idea of having a baseline: It is a Confederation, and the province of Ontario is a partner in that Confederation and we are our own level of government. So I'm quite happy with the permanent commission and that it work with this idea that the base is the federal boundaries and then we'll go from there, recognizing that we are an independent and equal level of government in our Confederation.

The Chair (Mr. Greg Sorbara): I agree with that. The great good fortune for those of us on this committee is that Larry Johnston, our research officer, has a paper to be distributed today—I think it's already before you—with further research, including reasons for an independent provincial boundaries commission. So we will all look at that. However, I think I detect a consensus that we are to have a boundaries commission because we have to have one.

Mr. Norman W. Sterling: If you're going to alter any of the federal boundaries—

The Chair (Mr. Greg Sorbara): For that boundaries commission, the baseline ought to be boundaries that are coterminous with federal boundaries and that there

should be some flexibility to present proposals that divert from those coterminous boundaries. The devil will be in the statutory language, and that's the reason why I am hoping that our report can have a draft bill appended to it so that we will have done some work on the statutory language.

Mr. Norman W. Sterling: I'll lend you my bill.

The Chair (Mr. Greg Sorbara): We'll probably adopt it verbatim.

Mr. Peter Kormos: Who does Mr. Sterling contemplate being on this commission?

Mr. Norman W. Sterling: One of the things I wanted to ask Mr. Johnston is: Who's on the federal boundaries commission? What do they have there? There are 10 other boundary commissions in Canada. What is the normal mix?

Mr. Larry Johnston: There are one chairperson and two members for the federal boundaries commission and then there are chairpersons for each province, who are appointed by the Chief Justice of the province and the members by the Speaker of the House of Commons.

Mr. Norman W. Sterling: The members by the Speaker of the House of Commons?

Mr. Larry Johnston: Yes.

The Chair (Mr. Greg Sorbara): Do you know what? I think, Norm, you should give some thought to this and look at the research. You have a bill on boundaries before the Legislature, so bring your insight and your views on the makeup of such a commission to this committee, and it may well be that we want to adopt them.

Mr. Norman W. Sterling: But I want to make it clear: You can't have a boundaries commission that is then directed by majority government legislation if they want more representation in one part of the province than another. You've got to have general rules of application of drawing the boundaries and then leave it to them to draw those boundaries, and God help you if you don't follow them. That's how Pat Binns got thrown out of PEI: by having a boundaries commission come in, and then the government came in and said, "No way, José. We're going to gerrymander the province," and they lost.

1720

The Chair (Mr. Greg Sorbara): Ultimately, the bill that establishes the new boundaries is presented by the government, and the government would have to evaluate the political consequences of any deviation that it has from a boundary commission. Is that right, Mr. Johnston?

Mr. Larry Johnston: Yes. The paper I've given you does discuss the Supreme Court's rulings briefly on deviation from a standard electoral quotient or rep by pop.

Mr. Norman W. Sterling: Okay.

The Chair (Mr. Greg Sorbara): We have consensus on that as well, so let's go to the next section.

Section 5: "Modernizing Election Finance Rules.... Proposed legislative changes: 1. Corporate credit cards." I think everyone is in favour of that.

Mr. Peter Kormos: We agree with that.

The Chair (Mr. Greg Sorbara): Number 2 is "Emerging financial technologies." This just simply is, again, permissive, allowing the Chief Electoral Officer to examine and approve new methods of payment as they emerge. I don't think it's controversial.

Mr. Peter Kormos: We agree with that.

The Chair (Mr. Greg Sorbara): "Spending limits," number 3. The proposal is for candidates to be advised of spending limits beforehand—makes sense—but that that spending limit be a baseline. Even if the final voters' list is not as large as expected, the spending limit could only go up, so as not to Catch-22 the candidate.

Mr. Norman W. Sterling: We agree with that.

The Chair (Mr. Greg Sorbara): Good.

The next proposal, number 4, is in respect of electronic receipting. This is a much more significant proposal, because it really contemplates what's best described as a partnership between Elections Ontario—or, election financing Ontario—and riding associations and political parties to modernize the receipting process, to digitalize the receipting process, and to bring greater transparency to the receipting process.

Mr. Norman W. Sterling: You've changed your original proposal. Your original proposal was that the chief election officer would issue the receipt.

The Chair (Mr. Greg Sorbara): That's right.

Mr. Norman W. Sterling: You've changed it.

The Chair (Mr. Greg Sorbara): I have changed it significantly. I've changed it because I was advised appropriately by Elections Ontario that they cannot both issue receipts and be the enforcement agency in respect of receipting. We're developing a new model where basically there is a shared data-processing system and software, so that the receipt is actually issued by the political party or the riding association in a software system that is part of a larger Elections Ontario system, so that the data is at the same time available to Elections Ontario and the riding association, and the ability to report donations and send out receipts is much easier.

Mr. Peter Kormos: Why is it easier?

The Chair (Mr. Greg Sorbara): Because it would be done electronically through shared software systems.

Let's just talk in practical terms. Joe Smith, the CFO of Welland, receives a cheque for \$200 for the Peter Kormos campaign. Joe Smith has access to software in which he can input that data and a receipt would be electronically issued to the donor. Or, Jim Smith wants to make a donation to the Willowdale riding—he's very impressed with Mr. Zimmer. He can go online, make the donation, and an electronic receipt would instantly be issued out of software that is developed by Elections Ontario and the political parties. The data are instantly available to Elections Ontario and are part of a data file for the riding of Willowdale.

Mr. Peter Kormos: That last comment was the key part: It's instantly available, so it feeds it into an Elections Ontario database at the same time as it's issuing the receipt down in the little basement office of the chief financial officer of one of our campaigns. You see, there was confusion about that because you had—

Mr. Norman W. Sterling: Well, you see, I've got to go back to my party and talk about this, because this is significantly different than—

The Chair (Mr. Greg Sorbara): Central receiving.

Mr. Norman W. Sterling: Yes. I think we should—we were to meet until 5 o'clock.

The Chair (Mr. Greg Sorbara): Oh, really? I thought we were to go until 6 o'clock.

Mr. Peter Kormos: The other thing, about that, the other comment—

Mr. Norman W. Sterling: Five o'clock is what I was informed.

Mr. Peter Kormos: —is this, and I've made the observation and I'll tell you again. Elections Ontario: I see it in the political donations of the four leadership candidates—huge, huge, huge delays in getting that stuff processed by Elections Ontario; just unbelievable. And that's peanuts; that's small amounts of money, small numbers of donors. It's just very frustrating to see their inability to post—

The Chair (Mr. Greg Sorbara): Part of that is because of the intractability of the current system and the reporting requirements.

Mr. David Zimmer: But in fact, as I understand the computer technology, because my wife manages all the household finances on the thing: She can sit down at the computer, send money to wherever and push a button and, bang, she gets a receipt almost instantly; well, she gets a receipt on the screen and pushes another button and prints it out. Presumably, this is exactly what they do.

The Chair (Mr. Greg Sorbara): Yes, I mean—

Mr. David Zimmer: So it's a no-brainer.

The Chair (Mr. Greg Sorbara): Well, electronic receipting right now is illegal in Ontario because it can't be signed by the CFO. So all of us are doubling and trebling the amount of work we have to do, based on the technologies that would be available.

The beauty here is that if we can do this and authorize by statute the chief election officer to develop the software, it will be the most efficient way both for Elections Ontario and political parties to better manage.

There's one other advantage, and then we'll go to you, Mr. Kormos. Right now we have a 10-day reporting requirement for donations to political parties, but a year-and-a-half requirement if a similar amount of money goes to a riding association.

My own suggestion is that if we can develop this system, we have a standard of transparency I would suggest every month or every quarter for all donations, whether they're given to the New Democratic Party of Ontario or the riding of Niagara Centre.

Mr. Norman W. Sterling: The only problem you have there is that you're dealing with volunteers; you're not dealing with paid people. In the party you have paid people doing these transactions and in your riding organization you have volunteers. To start putting more onerous reporting on them is—

The Chair (Mr. Greg Sorbara): But, Norm, the fact is that you burden volunteers much more greatly with the kind of paperwork they have to do, keeping track of paper.

Mr. Norman W. Sterling: I don't argue against the electronic thing. I just want to talk to my—

The Chair (Mr. Greg Sorbara): Yes. Okay.

The fact is that we would have to authorize this by statute to authorize the chief election officer to develop the software capacity. But in fact, he would be developing it for all political parties. It would be, I think, a unique partnership which allows him to maintain the oversight and enforcement function while ensuring a far better functioning of the system.

Mr. Peter Kormos: What I'm telling you is that the Chief Electoral Officer doesn't seem to have developed software to deal with the relatively modest number of monetary donations in this NDP leadership campaign.

Mr. David Zimmer: Ah, but there's a new sheriff in town.

Mr. Peter Kormos: Okay, maybe your wife should do it.

Mr. David Zimmer: I have confidence in the new CEO.

The Chair (Mr. Greg Sorbara): Peter, you're absolutely right, but it's partially because they don't have the authority to put into place the kinds of systems—we have been having these discussions with them about a relatively dramatic change in the way we do this.

Mr. Peter Kormos: So maybe they're going to retain Tom Jakobek to develop the retainer with the software development firm.

The Chair (Mr. Greg Sorbara): Probably they will. In fact, I think that's the only reason why we would be proposing this.

I understand that Mr. Sterling has to get out of here as quickly as possible. Have you got five more minutes?

Mr. Norman W. Sterling: No.

The Chair (Mr. Greg Sorbara): Okay.

Mr. Norman W. Sterling: I just would like somebody to contact the privacy commissioner with regard to the address authority and get her positioning before we go too far.

The Chair (Mr. Greg Sorbara): We'll do that, but if the committee is agreeable, I will try and get the folks from MPAC here to talk about address authorities in general and specifically.

Mr. Peter Kormos: Yes, please.

Mr. David Zimmer: Next time, do we pick up on the Chair's memorandum at page 4: "Blackout"?

The Chair (Mr. Greg Sorbara): Yes. Larry will contact the privacy commissioner.

Interjection.

The Chair (Mr. Greg Sorbara): We'll start there. We say it's just blackouts, not walkouts.

The committee adjourned at 1731.

CONTENTS

Tuesday 3 March 2009

Review of election legislation.....	EL-47
--	--------------

SELECT COMMITTEE ON ELECTIONS

Chair / Président

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Howard Hampton (Kenora–Rainy River ND)

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Norman W. Sterling (Carleton–Mississippi Mills PC)

Mr. David Zimmer (Willowdale L)

Substitutions / Membres remplaçants

Mr. Peter Kormos (Welland ND)

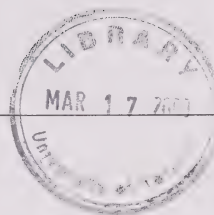
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Research and Information Services

EL-7



EL-7

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Jeudi 5 mars 2009

Select Committee on Elections

Review of election legislation

Comité spécial des élections

Révision de la législation électorale

Chair: Greg Sorbara
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON
ELECTIONS

Thursday 5 March 2009

COMITÉ SPÉCIAL DES
ÉLECTIONS

Jeudi 5 mars 2009

The committee met at 0902 in room 228.

The Chair (Mr. Greg Sorbara): We anticipate the arrival of Mr. Zimmer presently. There you go.

Mr. David Zimmer: Am I late?

The Chair (Mr. Greg Sorbara): No, you're not late. We were just talking about you.

Interjections.

The Chair (Mr. Greg Sorbara): The Chair has to remain neutral, although I will just begin by noting for the record the professional job done by my friend Mr. Kormos from Niagara Centre on the John Oakley Show this morning. Very professional.

Mr. David Zimmer: I missed that.

Mr. Peter Kormos: You too?

The Chair (Mr. Greg Sorbara): The matter for the record was Mr. Kormos's intervention yesterday at those unseemly little events around the Premier's scrum. I think the Premier expressed publicly his appreciation for your intervention. My goodness.

Mr. David Zimmer: Goodness.

The Chair (Mr. Greg Sorbara): I know that's not how you wanted the drama to end, but perhaps it's not over, in any event.

Mr. Norman W. Sterling: I know Mr. Kormos hopes the House will follow the example he tried to set for the CBC as well.

The Chair (Mr. Greg Sorbara): I'll have to get back to you on that. I'll have to parse that.

REVIEW OF ELECTION LEGISLATION

The Chair (Mr. Greg Sorbara): If I can just remind the committee that we were in the process of going through a series of draft recommendations, just to recap some of the stuff that we were going to do, we're going to get some more information on the address authority, and I think at some point perhaps invite the president of MPAC to the committee to give us a more fulsome sense of what an address authority might do before we make a final decision as to whether to include that provision in a revised statute. There are also some issues concerning the privacy commissioner, and we're going to work on that as well.

Can I ask the clerk just to remind me where we left off on these? Oh, we were just going into those issues relating to modernizing the election financing rules. I think we had discussed electronic receipting. There was a

quick nod on blackouts, but perhaps for the purposes of these deliberations, we'll just get some more information on the record about what we're contemplating by way of blackouts.

Mr. David Zimmer: Chair, which document are we working from?

The Chair (The Chair (Mr. Greg Sorbara): The document that says "Draft" at the top, then "Overview," a few pages of proposed changes, and we're at the top of page 4.

The issues relating to blackouts centre around the provisions that require no political advertising in the 24 hours preceding the opening of the polls. I think that most of us, until perhaps the past 10 or so years, had a pretty clear idea of what that meant, but with the advent of new technologies and new media, in recent elections there have been allegations to the Chief Electoral Officer that the blackout rules have been violated even simply, for example, on a website for a candidate with the addition of a banner that says, "Vote today," or some other change to what one might have on an individual candidate's website or a party's website.

Someone who posts a new little ditty on YouTube or Facebook, whatever that is—I haven't got my head around that whole world of social networking—I think it's called. The proposal here, given our mandate for modernization and housecleaning, is to simply provide some clearer rules. So the notion and the proposal here is that during the blackout period there could be no paid advertising by way of newspaper advertising, radio or television advertising, but the blackout would not extend to this rather more undisciplined world of new media.

Mr. Norman W. Sterling: Just a clarification on this: Presumably, you might pay for what was put on the Internet, and it would be advertising?

The Chair (Mr. Greg Sorbara): Yes.

Mr. Norman W. Sterling: And you would allow that during the blackout period?

The Chair (Mr. Greg Sorbara): You see, there's the area that we're trying to come to grips with and that I'd like a little bit of reflection on from the committee members.

Mr. Norman W. Sterling: But what happens if somebody says something scandalous about the reputation of a candidate or the leader of a political party on this, and it has quite a wide readership and it's done during the blackout period? Then there's no opportunity

to respond by the candidate, the leader or the party, either in print media or anything else.

The Chair (Mr. Greg Sorbara): Mr. Kormos.

Mr. Peter Kormos: The NDP generally agrees with this proposition. We understand why you exclude websites, YouTube and Facebook, but at the same time these little—what are they called?

The Chair (Mr. Greg Sorbara): Social networking.

Mr. Peter Kormos:—social networking are so readily co-opted and corrupted. We've seen it increasingly where a teen can generate a whole bunch of YouTubes that don't appear to have their origins in a political party. I suppose any political party is capable of doing it. Blogs are just incredibly—and I do understand that libel and slander liability applies not only to the author, who is usually unidentifiable, but also to the blog sponsor and the service provider. That's what I'm told is the state of the law. I suppose to the extent—are you excluding them because they're ungovernable?

0910

The Chair (Mr. Greg Sorbara): I think, in part, because they are ungovernable, and the notion is buying—the prohibition was about buying airtime, buying print. So, for example, if one has a party website, that website is paid for not in the traditional model of advertising. To try and imagine that we could govern that simply goes against where these media are going and the kind of town hall meeting style of atmosphere that's there. My own sense is that they have little to do with the decision of the voter and that there is so much noise out there that to try and govern it would be to try and do something which is impossible anyway. But we were going to go to David Zimmer.

Mr. David Zimmer: As I understand this Internet and YouTube stuff and all of that, the fact of the matter is that all other jurisdictions have found it impossible to police the materials that get placed on it in any way. They can't even come remotely close to it, because bloggers and all those sorts just stick stuff on. If countries like Iran and China and so on have tried, from time to time, to bring some order to that sort of Internet/blog/website stuff and have just effectively given up, that's something we just have to live with. But I think we can continue to have rules and regulations on paid advertising, on print and television and radio—and, I suppose, even if a party wanted to pay to take out a formal ad on the Internet or something, the paid stuff. But the free-floating stuff out there? Just live with it.

The Chair (Mr. Greg Sorbara): Yes.

Mr. Norman W. Sterling: I don't understand why we would take it out. Why take the sanction out? It may stop somebody from doing something. By taking the sanction out, basically you're saying it's a free game.

Mr. David Zimmer: Yes, but a sanction that's in place without any hope of enforcing it, doesn't that sort of disrespect to the whole system?

Mr. Norman W. Sterling: But we have lots of laws like that, Mr. Zimmer: smoking in cars, all kinds of stuff where you're trying to influence social behaviour. I just

don't see the big plus of doing this. I mean, it might be tidier, but who cares whether it's untidy? All you're doing is saying to somebody who is perhaps blatant about this, and you can catch them doing it, that you can go after them. So why not?

The Chair (Mr. Greg Sorbara): Mr. Kormos.

Mr. Peter Kormos: It's pretty compelling, isn't it? You talked about smoking in cars. Marijuana laws—I mean, heck. They're virtually—well, they are—unenforceable, but for any number of reasons, if only symbolic, they're maintained. Because if you exclude those three media, then you're tacitly saying, "Go ahead and do it. It's perfectly lawful and ethical and appropriate." I'm persuaded by Mr. Sterling. Why not throw them in? You're talking about paid political advertising, and it should be prohibited on those media as well. Again, it may not be a very strong deterrent, because people may violate the law, but if you do have somebody that you can catch, you can catch them.

The Chair (Mr. Greg Sorbara): Well, yes, okay. So if we were to emphasize in a proposed bill the phrase "paid political advertising," that might help give some definition.

Mr. Peter Kormos: What's the election predictor website that we all watch, perhaps foolishly?

Mr. David Zimmer: Real Politics?

Mr. Peter Kormos: No. During elections they predict outcomes in ridings—it's a university-sponsored one. People advertise on it; they advertise their campaigns. So what we're basically saying is that you could legitimately advertise your campaign on that website, knowing that political junkies, political enthusiasts are dialling it up three times a day. I think that's an illustration of how you would be approving paid political advertising in that sort of medium, which attracts people who are more likely to vote. DemocraticSpace, I think, is one.

The Chair (Mr. Greg Sorbara): I think we'll have to take those comments under consideration.

Mr. Norman W. Sterling: Okay.

The Chair (Mr. Greg Sorbara): Larry Johnston points out, appropriately, that we're talking about this 24-hour period. There is a blackout period on advertising, basically in the first—Larry, help me out here—about the first seven or eight days of a political campaign.

Mr. Larry Johnston: In a by-election or in a general election that's not held on the fixed date schedule, there is a blackout period from the time the writ is dropped until the 22nd day before polling day—for political advertising purposes, not for polling purposes; just for clarity's sake.

The Chair (Mr. Greg Sorbara): I don't think there's a very strong argument to keep that section in place.

Mr. Norman W. Sterling: What, the banning of political advertising in this period?

The Chair (Mr. Greg Sorbara): That's right, yes.

Mr. Norman W. Sterling: I agree with you. I don't mind that. I understand the blackout prior, the 24 hours, but—

The Chair (Mr. Greg Sorbara): Yes. Well, the provision had its genesis in the government's control of election dates and, frankly, the government's ability, if it's in control of the election date, to be first out of the gate and buy up all the best time and have an undue advantage when it comes to securing political advertising. That rule said there's no advertising in those first few days. I don't think we need that anymore.

Mr. Norman W. Sterling: Well, just a counter-argument, but—

The Chair (Mr. Greg Sorbara): Why is there always a counter-argument?

Mr. Norman W. Sterling: Well, you know, I think you should talk about these things, because basically the Premier of the day in the province of Ontario still has the right to walk down the hall here and ask for an election at any point in time.

The Chair (Mr. Greg Sorbara): I don't think that's the case, by the way.

Mr. Norman W. Sterling: Oh, it is. There's no question—

The Chair (Mr. Greg Sorbara): I don't think that's the case.

Mr. Norman W. Sterling: Ask Mr. Johnston. That's his constitutional right. That's what the Constitution says. That's what happened at the federal level with regard to the last election.

The Chair (Mr. Greg Sorbara): I think that was an illegal election, just—it's a minority view.

Mr. Norman W. Sterling: I'd argue you're wrong. But even the Attorney General's ministry, which carried the bill for the fixed election date—I asked him directly across. I said, "Notwithstanding this particular piece of legislation fixing the date, does the Premier still have the opportunity to walk down that hall today and call an election?" And he said yes, because it's a constitutional thing, and—

The Chair (Mr. Greg Sorbara): I agree with that, as a matter of what the Constitution might say. I hold a minority view that Her Honour the Governor General ought to have said to Mr. Harper at that time, "If you want to dissolve Parliament and choose another election date, you go back to Parliament and pass a bill to do that." But that's a minority view.

Mr. Norman W. Sterling: Yes, but you don't have—you know, you were very powerful at one time in this government. Even Dalton McGuinty doesn't have that power. I mean, that's what our Constitution says. Larry? Ask Mr. Johnston.

The Chair (Mr. Greg Sorbara): Larry?

Mr. Larry Johnston: Well, it's more that the prerogative of the Lieutenant Governor cannot be prescribed by the legislation. It can't take away the right of the Lieutenant Governor to dissolve Parliament, particularly if a leader with a majority situation went to the Lieutenant Governor and said, "I don't wish to govern anymore."

Mr. Norman W. Sterling: So, at any rate, I don't care whether it stays in or it doesn't stay in.

The Chair (Mr. Greg Sorbara): I want to get it out, so that's good. Mr. Kormos?

Mr. Peter Kormos: This is being raised for the first time now. I think it's interesting, because the power of the government to perform the misdeeds that you spoke of exists very much in by-elections. I'd like to have my caucus colleagues look at it, I guess.

The Chair (Mr. Greg Sorbara): As a practical matter, I've been fairly involved in a number of by-elections over the years, whether from the opposition side or from the government side. I have never seen an abuse by government in respect of advertising in a by-election, so I don't think there's any need there for the provision. But I respect your desire to take that back to your caucus.

Mr. Peter Kormos: Could Mr. Johnston do a one-page memo on that provision?

Mr. Norman W. Sterling: Blackout periods at the beginning of the campaign.

The Chair (Mr. Greg Sorbara): Number 6 is blackout periods applying to public opinion polling, and here the proposal is simply to mirror the federal election provisions.

Mr. Norman W. Sterling: And what is that? Is that 24 hours?

The Chair (Mr. Greg Sorbara): That's a 24-hour blackout on the publication of any polls.

Mr. Peter Kormos: New Democrats agree.

The Chair (Mr. Greg Sorbara): Okay.

0920

Mr. Norman W. Sterling: That doesn't apply to the first part of the campaign, does it?

The Chair (Mr. Greg Sorbara): No.

Mr. Norman W. Sterling: That's fine.

The Chair (Mr. Greg Sorbara): Number 7 has to do with planned giving, estate donations.

Mr. Peter Kormos: New Democrats agreed with that. I wonder why we simply didn't adopt the federal standard.

The Chair (Mr. Greg Sorbara): I didn't know that there was a federal standard for estate donations.

Mr. Peter Kormos: It's referred to in the briefing notes prepared by Mr. Johnston.

The Chair (Mr. Greg Sorbara): I missed that point.

Mr. Peter Kormos: Because you're talking about creating a maximum contribution. My understanding from Mr. Johnston's briefing note is that there's no maximum. It's a testamentary—

The Chair (Mr. Greg Sorbara): At the federal level? Right.

Within our own caucus there was some hesitation here. One or two people thought it was silly. I don't think it's silly at all, and I think there is frankly an opportunity for political parties to do some of their fundraising in that way. I don't think there could be allegations that the donor was trying to exact undue influence on a party or a government at that time, at least not personally. I take it that both of the other parties agree that we could perhaps mirror the federal provisions there.

Mr. Peter Kormos: New Democrats are very clear.

The Chair (Mr. Greg Sorbara): Mr. Sterling.

Mr. Norman W. Sterling: I'm just thinking of a guy like Conrad Black leaving \$50 million to the Liberal Party.

The Chair (Mr. Greg Sorbara): We're in negotiations.

Mr. David Zimmer: —the Order of Ontario.

Mr. Peter Kormos: How's he going to get back into Canada to get it? With a criminal record, he shouldn't be—

The Chair (Mr. Greg Sorbara): No. This is after he's gone.

Mr. Peter Kormos: Damned if they'll let him in in Fort Erie.

Mr. David Zimmer: Well, maybe he'll get the Presidential Medal of Freedom.

The Chair (Mr. Greg Sorbara): Frankly, Larry has just shown me the federal provision. I'm not sure that an unlimited donation is entirely appropriate, because there are—the example that you provide is not going to happen, but one could imagine that someone leaves a very large sum of money to a political party. Peter, what's your view on this?

Mr. Peter Kormos: Again, we discussed that. I actually questioned my caucus colleagues and some of our party brass, "You mean, no limit? No limit?" And they said yes. You don't want to make this stuff too complicated. You can't require it to be put into a trust, because there's a law that applies to perpetuity, right? You can't have a perpetual trust; is that right? If you could, you could tell a party, "No, any amount in excess of \$200,000 has to be put into trust and you could only utilize the income from that trust," for instance. I suspect that at some point you've have to wind that up. I don't know how to accommodate a maximum, with entitlement to the excess. So if it's a maximum, how would you set the maximum? What are you proposing? That it be \$100,000, \$200,000, \$1 million? A million doesn't go that far anymore.

Mr. Norman W. Sterling: I'm just thinking of the excessive amounts, like really excessive amounts, and how that could skew the political process for a long period of time.

The Chair (Mr. Greg Sorbara): What I was actually thinking of when we originally started talking about this was the same maximum donations that can be given by any other donor, so I think right now that's about \$10,000 annually. I'll go down Mr. Sterling's road a little bit on the so-called Conrad Black example. The idea—

Mr. Peter Kormos: Barbara would have to be dead before—

The Chair (Mr. Greg Sorbara): Well, Barbara would have to sign off, for sure.

Mr. Peter Kormos: That's right, exactly. It ain't gonna happen.

The Chair (Mr. Greg Sorbara): I've had a lot to do with this whole business of political donations and political fundraising. Obviously, the issue is that you ought not to gain any benefit from your donation, and I quipped

that certainly the deceased is not going to benefit from the donation. However, large estates that could perhaps leave a million dollars to the New Democratic Party of Ontario have executors and people who are running businesses out of which that gift is generated, and they might often just say, "By the way, your party is pretty much living on that testamentary gift that this estate provided for you," and while the deceased is gone, the enterprises out of which the deceased earned the capacity to give a million dollars to the New Democratic Party continues to exist. So my predisposition at this point is to set a maximum, perhaps not the maximum of an inter vivos gift but to have a maximum of some sort or other.

Mr. Peter Kormos: How old is the federal provision?

Mr. Larry Johnston: I'd have to go back and check the legislation, when it was put in.

Mr. Peter Kormos: Why wouldn't the federal legislation include a maximum?

The Chair (Mr. Greg Sorbara): I know even less than Larry, and that's generally the case. I haven't done any study on it. I don't have any information on whether it is a viable form of fundraising yet. However, if you look at the demographics over the course of the next 20 years, it could represent a small increment in donations.

Mr. Peter Kormos: For example, the NDP did receive a sizable donation by way of a will, but it wasn't a political donation. The money had to be used for community social purposes. I think it was last year or two years ago, half a million to a couple of various community groups. That's a totally different thing.

The Chair (Mr. Greg Sorbara): That's more like giving it to the party in trust for specific purposes.

Mr. Peter Kormos: That's right, because it wasn't unconditional; it was conditional. We're not contemplating that. That's a totally different issue.

Okay. Look, we agree with the proposition—

The Chair (Mr. Greg Sorbara): The question is limits.

Mr. Peter Kormos: The question is whether or not there should be a limit and what should the limit be.

The Chair (Mr. Greg Sorbara): Mr. Zimmer.

Mr. David Zimmer: The reality here is, and I spoke strongly in favour of this, that there are many, many people in the riding associations, long-time Liberals, Conservatives and NDP, who have been active members of the riding associations for 20, 25 years. Their whole sort of social lives are built around that. I often get inquiries from these people, as they're getting into their very senior years, that they'd like to leave something to the party. They're talking about modest amounts. I expect it might be a couple of thousand dollars or \$5,000 max or something like that, but they've put in these years and years and they're the stalwarts of the party. They keep those riding associations going from year to year in good times and bad, and I think that's the target we're after.

Mr. Peter Kormos: Just think, Norm, if the Liberals did get \$50 million, they'd blow it all on one election anyway.

The Chair (Mr. Greg Sorbara): No comment.

Mr. David Zimmer: But Tories have got bigger estates.

Mr. Norman W. Sterling: Perhaps Mr. Johnston can find out how other jurisdictions who have this ability other than Canada deal with it. My inclination would be to say that it can't be more than 20 times the individual annual or whatever, some ratio, so that the provision would hold up for a long, long period of time. Because you can't predict. If a 28-year-old draws his will today and dies 50 years from now, you don't know what's going to be. That's how I would do it.

The Chair (Mr. Greg Sorbara): My inclination is to use the existing maximum. So an individual in any given year can give I think it's \$10,800 to a party and a certain amount to up to five riding associations. I think the all-in amount is around \$20,000, and my inclination is to say that should be the maximum from a testamentary gift and to allow that gift to continue out of the estate of the deceased for a period of five or 10 years or something like that.

0930

Mr. Peter Kormos: What's the impact of that that will in fact—here's \$100,000. Does the Election Act interfere with the will of the deceased or does it interfere with how the political party that gets the gift deals with the money?

The Chair (Mr. Greg Sorbara): I think the answer to that is that the Election Act would define the ability for the will to be enforced and that if, for example, there was a maximum of \$100,000 but the will provided for \$1,000,000, the \$900,000 would have to be returned to the executors of the estate and dealt with as part of the residuary of the estate.

Mr. Norman W. Sterling: That's fine, unless the political donation is the residuary part of the will. But anyway, I don't want to belabour that.

If he says the residue goes to the Progressive Conservative Party of Ontario, that—

The Chair (Mr. Greg Sorbara): That would be the default position. Any money that wasn't able to be received by other parties would default to the Conservative Party.

Mr. Norman W. Sterling: No. But if it was under \$1,000.

The Chair (Mr. Greg Sorbara): Okay. Let's go on to section VI: Improving access for persons with disabilities—certain proposed legislative changes and certain recommendations which would be outside the bounds of a new statute. The first is persons with disabilities: Providing the Chief Electoral Officer with the ability to use new and emerging technologies to assist persons with disabilities in voting in both general elections and by-elections. Any issues?

Mr. David Zimmer: No. That's consistent with delegating the authority to make the voting process user-friendly. We should just delegate that as indicated.

The Chair (Mr. Greg Sorbara): Mr. Sterling.

Mr. Norman W. Sterling: I had a brief discussion with the Chief Electoral Officer about this. I asked him where this was to be used, and he said, "We're trying this out in the by-election"—that's taking place today. I said, "Fine. How much does it cost per unit?" He said, "They're doing it free." They're doing it free in the by-election because they hope to get this—

The Chair (Mr. Greg Sorbara): They want a contract.

Mr. Norman W. Sterling: Yes, they want a contract. So my understanding—the only evidence I have with regard to some of this voting technique is that they did this in the province of New Brunswick. I'm not sure how broadly it was available, but there were four voters in all of the province who used the technology. You still have to have some kind of basis in terms of introducing the technology in order to maintain the integrity of the process. There still has to be some financial responsibility here. My only concern is, how do you not have this in every polling station across the province of Ontario? And if that costs, and if you find out that in 98% of the polls the machines are never used, how do you deal with that? So I thought it would be best to discuss this with the Chief Electoral Officer next week or a couple of weeks from now, after he's had some experience up in Haliburton with this technology, so we can ask him, is this going to be necessary in our report? He told me he thought it would be applied and provided only at the returning office, one per riding. That's 107 or 127 places in the future. I don't know whether or not you can do that.

The Chair (Mr. Greg Sorbara): The answer is you can, I think.

Mr. Peter Kormos: I'm not sure Barbara Hall would agree.

Mr. Norman W. Sterling: Yeah, that's the problem.

Mr. Peter Kormos: Seriously. That's not access, in terms of the broad Liberal concept of access. We support the proposition. It would be interesting to make sure that the Chief Electoral Officer knows it should consult with leadership in the various communities that advocate for the disabled, as I suspect it would; it shouldn't be doing this unilaterally. But this doesn't mean excluding section 55, voting by friend of the elector.

The Chair (Mr. Greg Sorbara): Voting by?

Mr. Peter Kormos: Assistance by a friend of the elector. Somebody going into the voting booth with—

The Chair (Mr. Greg Sorbara): No, it does not.

Mr. Peter Kormos: Okay, good. I just wanted to make sure, because it's critical that that remain.

The Chair (Mr. Greg Sorbara): The idea is not to have to rely as much on voting by friend of the elector.

I want, first of all, to answer Mr. Sterling's issue: Does that mean very expensive technologies in every polling place? The fact is that, like all organizations, Elections Ontario is subject to a budget approved by the Board of Internal Economy of this Parliament. So it is the constraints on budget that are one of the limiting factors to progress in a wide variety of areas, particularly those

associated with technology. This provision simply acknowledges that there will be emerging technologies and one would not have to go back to the act to permit something that is other than “friend of the elector” or a simple X on a ballot.

Mr. Peter Kormos: Just an observation, noting that the technology that’s being provided in the by-election is being provided free by the people who build and develop this stuff.

The Chair (Mr. Greg Sorbara): Sure.

Mr. Peter Kormos: You know how any number of things happen, how government projects happen.

The Chair (Mr. Greg Sorbara): The first one is always free.

Mr. Peter Kormos: But people have a private profit interest. Look at some of the incredible public expenditures, once again, in computer software and so on. We agree with the proposition. I understand that it’s going to be driven, and then the taxpayer is going to be used as research and development for any number of operations, isn’t it?

Mr. Norman W. Sterling: Nobody can disagree with the proposition, but can you achieve almost the same end with somebody helping the elector?

The Chair (Mr. Greg Sorbara): Yes—

Mr. Norman W. Sterling: And once you cross this line, that’s my concern. If I were the guy driving sales of this machine, I would have an appointment with Barbara Hall next week.

The Chair (Mr. Greg Sorbara): Mr. Zimmer.

Mr. David Zimmer: Going back to the fundamental principles, isn’t the whole idea of a lot of the stuff that we’re doing to delegate the responsibility for this sort of stuff to the CEO and let him figure it out? All we’re saying, as a committee or in the report, is, “Enhance access for people with disabilities,” and then leave it up to the CEO to figure it out.

Mr. Peter Kormos: We’re looking at the totality, because we’re also considering mail-in ballots. If the mail-in ballots were available to anybody who applied for one, without having to need a test like being in the military or testifying that you’re out of town, then persons with disabilities who would find it difficult in a traditional voting booth could well elect to do that.

The Chair (Mr. Greg Sorbara): That’s an interesting point. I just want to get back to the business of the “friend of the elector” provision. If you speak to people in the disabled community, they may make the argument that they want to have the same secrecy and privacy as any other citizen, and “friend of the elector” doesn’t achieve that. It’s going to stay in the statute and we’re going to continue to use it. But Mr. Zimmer points out that we’re simply trying to acknowledge in the statute that as technologies emerge, they can be used.

I understand the whole notion of trying out technologies free of charge. I don’t think, though, given the responsibility to live within a budget, that we are going to see every polling place provided with very sophisticated technologies that are virtually unused.

0940

Mr. Norman W. Sterling: My only observation is that under the past Chief Electoral Officer, the budget for the election office exploded. If you feel like giving a free hand—because I have not seen a Board of Internal Economy say to any legislative officer, which the Chief Electoral Officer is, “We’re going to limit you.” They will always have a good reason as to why to expand their budgets, and this stuff is not inexpensive. I’m just saying that if you give a legislative officer a lot of leash, they’ll take it. That’s my experience over a long period of time. Once you say to them, “You have more jurisdiction, more authority to spend money,” they’ll be at the door of the Board of Internal Economy for it. I just think you have to be somewhat reasonable in what you do, especially in these times when we’re going to have a \$13-billion deficit next year.

The Chair (Mr. Greg Sorbara): One of the fascinating things about these technologies is the extent to which they become eminently affordable so very quickly. For example, 10 years ago, could one have imagined the touch screen of an iPhone? Now they cost \$200 and everybody’s got them.

But anyway I’m very sensitive to the points—

Mr. Norman W. Sterling: Now that this experiment is going on this very day, I think we should have a talk with the Chief Electoral Officer as to how this worked, where it would work, and is it reasonable to restrict it to one location in each riding, that kind of thing.

The Chair (Mr. Greg Sorbara): It’s a good point. Can we move on then to number two?

Number two is really a repetition of a discussion that we had about mobile polling stations, and again, reflecting the approach that we use at the federal level. I think you should raise that question on the record.

Mr. Larry Johnston: I just wondered if that also included the federal provision that allows persons with disabilities who cannot travel to the poll because of a physical disability to vote at home. They may apply for this and then election officials will bring the ballot to the home.

Mr. Norman W. Sterling: I think it should. In that way perhaps you can restrict the problem that I was identifying before, and that is that there are relatively few people that need this kind of assistance and you can bring the assistance to them rather than have it spread all over the place. The other part, too, is that I can remember my early elections where I heard about polls where there was a polling station which was up some stairs. The older people couldn’t do it and they’d come down and let the person vote on the street—not on the street, but in the yard or whatever it was. They’d bring the ballot box down and they’d put the ballot in and that would be it. But I think that we should do as the Canada Elections Act, as well as give the—I don’t know if this is included in this but it is the same topic, and that is, I believe if you have the mobile one, you can then restrict or not have certain polls, like in a long-term-care unit. You don’t have to have people sitting there for the 12½ hours. If

somebody comes in after it's gone, they can send the mobile guy back over to get that person; therefore, you can have mobile polling stations covering perhaps three or four long-term-care places in the area in one day.

The Chair (Mr. Greg Sorbara): Mr. Kormos?

Mr. Peter Kormos: Your own recommendation, number 4, allows for special mail-in ballots. But you see, this again, there's the problem of not making it universal, because if you say, "Special mail-in ballot available to"—any number of things—"persons with disabilities," what do they have to do? Do they have to swear that they have a disability before they get a mail-in ballot?

The Chair (Mr. Greg Sorbara): They have to apply to the returning officer for that.

If I might just add, on these two issues, special mail-in ballots and mobile polls, the lead here is the federal act. Our information is that the standards under the federal act are effective and efficient as far as cost is concerned. That's a good reason to mirror them in any event. However, I think the even more important reason to try to mirror them, or mirror them, is because, in the mind of the voter, it's so frustrating when it comes to election day to find out that, "Oh, well, I could do that in the federal election, but I can't do that in the provincial election." Those are the kinds of standards. In this area, standardization is a good idea.

Mr. Peter Kormos: I understand, but you're making people make a special application for mail-in ballots, and you're making them fit or meet certain thresholds—military service, that's an easy one; an affidavit to the effect that my family and I are going to Europe for that month, that's an easy one.

Let me give an example—Rogers Cable. In my apartment here, the box keeps crashing, and it has to be rebooted. I know how to reboot it; you have to crawl in behind the TV with the mass of wires, but they can do it from Rogers. So I call them and they say, "Well, sir, just don't worry, all you do is unplug your box, wait 30 seconds and then plug it in." I say, "No, I'm in a body cast."

The Chair (Mr. Greg Sorbara): Right.

Mr. Peter Kormos: I tell them that. "You guys can do it, because I'm in a body cast, and I'll have your ass before the Human Rights Commission so fast your head will spin," and then they do it. Right?

The Chair (Mr. Greg Sorbara): The true New Democratic spirit is coming out now.

Mr. Peter Kormos: I don't want to go crawling on my hands and knees, with the dustballs behind the TV.

So what are you going to ask of people?

The Chair (Mr. Greg Sorbara): I think it's the dustballs that are the genesis of the problem. Those things can be toxic, so be careful back there.

Mr. Peter Kormos: Dustballs are a part of our life.

What do you do with the disability application for special ballots?

The Chair (Mr. Greg Sorbara): Again, I would say the starting position is that we should mirror the federal provisions.

Now, our researcher, the all-wise Larry Johnston, says, "At the federal level, anyone"—confirm this for me, Larry—"can take advantage of a special mail-in ballot."

Mr. Larry Johnston: That's correct.

Mr. Peter Kormos: Well, there.

The Chair (Mr. Greg Sorbara): So maybe that's where we want to go—not where the CEO wants to go, but maybe we ought to go there.

Mr. Peter Kormos: And maybe we should ask him at some point in the near future why he wouldn't want to go there.

The Chair (Mr. Greg Sorbara): And we will do that, for sure.

But, again, I place myself in the shoes and the mindset of the voter. The voter says, "You have the same ridings; it's the same people who work in the elections. Why do we have two different sets of rules? Is there something magic or special about an election at the federal or provincial level?" Now, I will be chastised for bringing that suggestion forward, but we'll see. Okay, so—

Mr. Norman W. Sterling: So you think what's good for the feds is good for us, is that right? Like 106 ridings or 107?

The Chair (Mr. Greg Sorbara): I think the answer is: what's in the best interests of the people of Ontario, including those in the northern part of the province.

0950

Mr. Norman W. Sterling: Mr. Johnston, as I understand it, the mail-in ballot process seems to be protected from abuse by the fact that you have to go through a two-step process. In other words, you have to make an application—

Mr. Larry Johnston: You make an application.

Mr. Norman W. Sterling: And in the application, do you have to state the reason why you want a mail-in ballot?

Mr. Larry Johnston: No, I don't believe you do at the federal level. I do have the application form here, actually. If you like, I can dig that out for the committee.

Mr. Norman W. Sterling: I guess the concern that anybody has in the voting process is that if the process is used to a much greater extent in one electoral district as opposed to all of the rest, then somebody thinks maybe there's some integrity lost in the voting process. Perhaps you could ask the Chief Electoral Officer of Canada if there was any particular constituency or riding across Canada that seemed to have an excessive use of the mail-in ballot by the ordinary—

Mr. Larry Johnston: I can just tell you, in terms of the application, in the section "Canadian electors voting in their electoral districts," Elections Canada says "Canadians who will be 18 years of age or older on polling day and who, during an electoral event, cannot or do not wish to vote at the ordinary or advance polls, may vote by special ballot in their own electoral districts."

The Chair (Mr. Greg Sorbara): And frankly, I'm not sure why we simply wouldn't mirror that. I'm not

sure that there will be a stampede toward the mail-in ballot.

Mr. Larry Johnston: I do have statistics and have provided statistics to the committee.

The Chair (Mr. Greg Sorbara): I think we've seen those statistics—

Mr. Larry Johnston: You'd have statistics on the last four federal elections.

Mr. Norman W. Sterling: And is that riding-by-riding?

Mr. Larry Johnston: No.

Mr. Norman W. Sterling: My concern is that one particular constituency has 5,000 mail-in ballots from the general public and everybody else has 100.

The Chair (Mr. Greg Sorbara): Mr. Kormos?

Mr. Peter Kormos: I'm going to go one further and, again, just considering this: If you're going to professionalize the local returning officer and make it a longer-term appointment, make it a full-time job throughout the course of the months and the years, are we then going to accommodate the people—because I've got people, depending on the time of the election, who go to Florida; right? Snowbirds—who are leaving too soon to be able to get to an advance poll. How do we take care of the people who know they're not going to be in the country and they're leaving before the formal election process starts, knowing that there's going to be an election because of fixed election dates? How do we accommodate them? Is there any way of accommodating them, people like snowbirds, for instance?

The Chair (Mr. Greg Sorbara): Larry Johnston has an answer and I have a preliminary. Obviously the ballot can't be sent out until the nomination process is closed. Mr. Johnston?

Mr. Larry Johnston: In the 39th—not the last federal election but the one before—which was in January, I believe, as it was a winter election, Elections Canada made a special effort to contact snowbirds, those who were vacationing in the United States and Mexico. They received 80,000 applications and people were able to apply online. So if they were away they could do that. I think some 30,000 actually voted as snowbirds.

Mr. Peter Kormos: So you don't need the ballot, you just need the permission or the application to get sent a balloting package.

Mr. Larry Johnston: Yes. You get a kit.

The Chair (Mr. Greg Sorbara): Yes. And again, obviously, Elections Canada has experience in this area. If we can rely on that experience and mirror that experience, then I think voters will feel more comfortable.

I don't think this is an area that is going to grow significantly in activity. Mr. Sterling and I, being of a certain age, still rely greatly on what's called snail mail. My kids just—I mean, if it can't be done online, why would you even bother doing it?

Mr. David Zimmer: And besides, you guys only have a few more elections left.

The Chair (Mr. Greg Sorbara): I think "a few" is an exaggeration.

Okay. That's where we're going on these recommendations for mobile polls and special ballots.

We did not talk about transferred polling places: transfer certificates on election day to permit persons who use wheelchairs or have other physical disabilities to vote at facilities that provide level access if, in exceptional cases, their own polling site does not provide such access.

Agreed, agreed, agreed.

Mr. Peter Kormos: Hold on.

The Chair (Mr. Greg Sorbara): Oops. Agreed, sort of agreed, agreed.

Mr. Peter Kormos: Who applies for the certificate?

The Chair (Mr. Greg Sorbara): Who applies for the certificate?

Mr. Peter Kormos: The elector? And up until what time?

The Chair (Mr. Greg Sorbara): I have no idea, but perhaps our researcher does.

Mr. Larry Johnston: My understanding is that this would simply change the existing provision, which allows a person to apply up to the day before polling day, to be able to extend that application to polling day.

The Chair (Mr. Greg Sorbara): Under the heading "Improving Access for Persons with Disabilities," the recommendation is one with a number of bullet points. It really just says that the Chief Electoral Officer should continue to work closely with the disability community on developing additional services such as, and then there are a number of points. I don't think we contemplate, here, putting anything in a statute. I think we contemplate putting something in a report, but this is something that would go out in any event.

I should point out that there was some question from my dear friend Madame Meilleur, who is the minister responsible in this area, about a hearing or consultation process on greater access for people with disabilities when it comes to the election process. My answer to her was that it is going on right now—it is part of this committee's work—and it will continue to go on by way of a report mandate to the Chief Electoral Officer, but he would do it anyway because it's part of the way he does business. As an entity that is subject to the laws of the province of Ontario, Elections Ontario is subject to the new disabilities act, which was passed in this Parliament some time ago.

Okay? We're all happy with this?

Mr. Peter Kormos: Yes.

The Chair (Mr. Greg Sorbara): Good.

Finally, the issue of better enforcement of the Election Act—this issue is interesting and straightforward. There are no sanctions in the current act, other than that the Chief Electoral Officer can pay a visit to the Attorney General of the province to say, "We've got a violation here. Do you want to do anything about it, Mr. Attorney General?"

What is contemplated here is providing for administrative penalties and fines for violations of the act. I think everyone in the room will know that there is the ability to decertify riding associations for failure to comply, and

there are certain provisions that disqualify candidates. But unlike most acts that are of an enforcement nature, there is no ability to say, "You have had three notices to file your annual returns, you haven't done that and we're fining you \$300," or whatever. I'm wondering what this committee thinks about that, and I'm going to start with Mr. Zimmer.

Mr. David Zimmer: As you recall, the CEO spoke strongly about this, and essentially what he said, because the only recourse for any offence, including all the minor offences, was to go to the Attorney General, and that was such a cumbersome, heavy-handed, nuclear-weapon approach—

The Chair (Mr. Greg Sorbara): And it puts it back, frankly, in the hands of an official who is part of—

Mr. David Zimmer: The politicians.

The Chair (Mr. Greg Sorbara): Yes.

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Mr. David Zimmer: Yes, the politicians. So for this administrative stuff, he wanted the ability to step in quickly, bring the hammer down and say, "Do this or it's going to cost you a thousand bucks" or something to snap the thing along. It just makes sense.

The Chair (Mr. Greg Sorbara): Mr. Kormos and then Mr. Sterling.

Mr. Peter Kormos: I disagree. This drew some considerable attention from the party brass people who sat in our—

The Chair (Mr. Greg Sorbara): Not surprising.

Mr. Peter Kormos: The observation was this: People who are doing this work—our local financial officers, the tabulators—are volunteers. They're working out of little basement offices, their dens or what have you. There was concern about the fact that there isn't a clear distinction between overt criminal behaviour or intentional behaviour versus inadvertent behaviour, and the concern that inadvertent behaviour, where there is no evil motive—right?—or intention or goal, shouldn't be punished. To have administrative fines means there's no trial of any sort; it's unfair. The recourse to the Attorney General would provide a guarantee that only this conduct, where there was an intention to defraud, where it was an intentional violation, I suspect, would be prosecuted.

So there were concerns about the failure to recognize the local executive types or volunteers. There was a concern about the fact that there isn't some leeway like the presumed 15-kilometre-an-hour leeway on the 400 series highways. Everybody assumes that you don't get pulled over for speeding and it's pretty safe. It's actually like an area in which there perhaps can be—you know, bank tellers have to stand on their feet counting at the end of the day; some of them spend hours at the end of the day. They're not allowed to take the 15 cents out of their pocket. It's a silly thing that banks do to their employees. It's designed to maintain integrity, and I understand that.

Why aren't we creating some leeway and encouraging the CEO to exercise some great discretion and also adopting federal practices—this is what I'm told—like filing online?

Mr. David Zimmer: My understanding from what the CEO said, and my sense of how he'd approach this, is that the last thing they want to do is lower the boom on someone or impose a fine. In fact, the practice is that when there are violations and stuff, there are telephone calls, "You've done this. Can you clean this up? Can you stop doing that? Can you get this filed in?" and they make a series of repeated calls and so forth. It's only after those discretionary steps, the telephone calls and "Can you clean this up"—when that fails—do they then even think about imposing the penalty. So your point about cutting some slack I think is implicit in the system and certainly implicit and explicit in the testimony of the CEO. That's how he would enforce it.

The Chair (Mr. Greg Sorbara): I think that's right. We'll go to Mr. Sterling in a second.

Peter, I don't think this becomes a world where there is no discretion. The issue here is that the organization and the CEO, the Chief Electoral Officer, have no tools right now of any sort to encourage compliance and most modern statutes have those tools. The plea from them, and I think it's a reasonable one, is to develop a tool kit. Mostly when there are violations, they generally relate to filing of documentation and reporting in a timely fashion. There are calls going back and forth between Elections Ontario and the riding association, though all of those people responsible for the riding association say, "I'm not involved anymore, sorry. I was only there because Kormos was the candidate and he's gone now. So don't call me. I think I resigned. Didn't I resign?" So then the call goes to the central party, "You've got to clean this up." What do you do? I think all of that will continue. The proposal is for a small tool kit of enforcement mechanisms.

I'm sorry, Mr. Sterling. I should have let you go first.

Mr. Norman W. Sterling: Yes. I put up my hand about three speakers ago.

The Chair (Mr. Greg Sorbara): I think it was actually five speakers ago, but who's quibbling?

Mr. Norman W. Sterling: Thank you for clarifying that. No, it's okay. It's fine.

Right now, I sort of like the way the system works. Because the election officer does not have these administrative—they move mountains to help the volunteers, the riding associations, etc. to get their things in order, and you know what? For me, that's not a problem. I've won nine elections in a row. My association runs pretty well—

The Chair (Mr. Greg Sorbara): Your association is a model for the rest of the province, I'm told.

Mr. Norman W. Sterling: It runs pretty well. Sometimes I go to my chief financial officer and I've got to phone him and prod him a little bit and that kind of thing. I can only imagine if you ran for the Green Party the last time. Whatever financing you received, and you don't know if the records are here and they're there and all that kind of stuff. Maybe they're more organized than I think they might be, but how do you keep what I would call a 99% feeling of responsibility in the CEO's office and a

1% responsibility in the hands of the volunteer? If you get an irrational person dealing with these riding associations and they say, "We're going to slap you with a fine"—again, I go back to Mr. Johnston. What do the feds do here in terms of fines and that kind of thing?

The Chair (Mr. Greg Sorbara): Just before—and I'm asking Mr. Johnston the same thing and I want to hear from him—I want to respond to you briefly. Yes, Elections Ontario will move mountains to—

Mr. Norman W. Sterling: You don't know that for a fact.

The Chair (Mr. Greg Sorbara): But they do.

Mr. Norman W. Sterling: They do now because they don't have any other alternative.

The Chair (Mr. Greg Sorbara): That's right, but you know what? I think it's fair to consider that part of moving mountains ought to be some enforcement mechanisms. The reason is that we say, "These are all volunteers working in basements," and that's right, but they are dealing with an important process and significant public financing of the process. I don't think it changes the dynamic to have an enforcement towards it. We're not jailing anyone; we're just providing for administrative fines. The real sanction is decertification.

On the other hand to that equation, should we not be encouraging a somewhat higher level of responsibility for people who take on those roles? I notice that Mr. Johnston is searching through—

Mr. Peter Kormos: While he's searching, who are you proposing be fined? The candidate?

The Chair (Mr. Greg Sorbara): Well, it would depend on who is responsible. It could be the provincial party or it could be the riding association. I think those are the two main candidates.

Mr. Peter Kormos: Most of our riding associations don't have any money.

The Chair (Mr. Greg Sorbara): That's right.

Mr. Norman W. Sterling: Does Mr. Johnston have anything?

Mr. Larry Johnston: Yes, I have two things. One thing I have is the information in the Compendium of Electoral Administration in Canada that Elections Canada puts together. That simply identifies who is responsible for prosecuting offences under the act and it varies from jurisdiction to jurisdiction.

The other thing I would offer, just going at it the other way around, is that the Chief Electoral Officer has, in appendix D of his proposal, identified five administrative powers that he would see falling under this section and into this tool kit. In identifying where else these powers are found, one of them is similar to a sanction available under the Manitoba Elections Act, and that's the ability to issue a reprimand. Compliance agreements in lieu of being prosecuted are, according to the CEO, used very successfully under section 517 of the Canada Elections Act since 2000.

1010

The other three powers that he has suggested, he indicates, are powers that either he hasn't found another

regulator who uses them, or they're used by securities commissions and regulators of professions, not by electoral administrators at present.

Mr. Norman W. Sterling: What are those other three that he's seeking? Fines?

Mr. Larry Johnston: Well, one is the ability to suspend the registration of a party or constituency association. He provides no electoral precedent for that.

There is the "ability to reduce the campaign expense subsidy for a party or candidate eligible to receive a subsidy," and he notes that Elections Ontario staff can find no regulator with a similar power, due to the fact that few regulators outside the electoral context pay public subsidies to the entities they oversee.

The final one is the "ability to levy an administrative charge for late filing...." He indicates that this is similar in principle to the late filing penalty that the CRA—I guess that's Canada Revenue—charges taxpayers.

Mr. Norman W. Sterling: I don't really have a lot of problem with the first two, but I do have problems with taking money out of the rebate. It hasn't been a problem for me, but I imagine there are a lot of creditors waiting for that money that the constituency association is going to receive back. I don't think they should be put in a disadvantageous position because somebody hasn't filed or dealt with their responsibilities under the Election Act.

The Chair (Mr. Greg Sorbara): Mr. Kormos.

Mr. Peter Kormos: My suspicion is that the two most frequent failures are around filing your material within the time frame, because I know that the NDP head office gets all twisted as the deadline approaches, and the other one would be having balanced the books, so to speak.

Our folks say that there's no ability to apply for an extension, currently. I don't know if that's the case or not. But that would be a nice part to include in this, including, as I say, some sort of leeway in terms of accounting, to account for shrinkage, perhaps, if you will, as long as there's no suspicion, of course, of outright misuse of funds.

Mr. Norman W. Sterling: I don't mind the deregistration one, which was the third one, was it? That was—

The Chair (Mr. Greg Sorbara): My impression is that we already have deregistration.

Mr. Norman W. Sterling: That's what I thought.

Mr. David Zimmer: Yeah, we do.

Mr. Norman W. Sterling: I thought that was already—

Mr. David Zimmer: That's the ultimate sanction.

The Chair (Mr. Greg Sorbara): I think the word we heard was "suspension," which may be—

Mr. Larry Johnston: You mean on a temporary basis.

The Chair (Mr. Greg Sorbara): Yes. We have deregistration, but we don't have temporary suspension, and maybe that would be—it's sort of an interim step. When a riding association is—

Mr. Norman W. Sterling: I don't have any problem with the first three, but I do have a significant problem with administrative penalties. I think if you're going to

go that far, then the CEO should be pushed to going to the Attorney General and laying charges and going through all of that stuff.

Mr. Peter Kormos: Unless the administrative financial penalty was assessed against the candidate.

The Chair (Mr. Greg Sorbara): You'd like that, if it's assessed against the candidate?

Mr. Peter Kormos: I'm glad other people have an appetite for that. I didn't think they would.

The Chair (Mr. Greg Sorbara): I like that a lot.

Mr. Peter Kormos: Okay. Look, you know what happens. Again, the failure to report in time and so on comes more often from the campaigns that weren't successful, because those people are demoralized and discouraged; they disband quickly. Nobody even wants to clean up the committee room. Sometimes it's successful candidates' campaigns that don't want to clean up the committee room. I'm very lucky in that regard.

Yes, I have a great deal of sympathy for the people who do this.

The Chair (Mr. Greg Sorbara): You mentioned the issue of extending deadlines, and there should be the extension of deadlines. As a practical matter, that's what happens now, over and over again.

Mr. Peter Kormos: That's right.

The Chair (Mr. Greg Sorbara): The ability to impose a fine is a little bit—it just serves as kind of a further encouragement to actually comply. I'm not saying that we should or shouldn't do it, but if we do it, the real burden will fall on the shoulders of the central party to bring better discipline and better compliance at the local riding level. That's really what happens.

Mr. Peter Kormos: Wow.

Mr. Norman W. Sterling: We are all from three established parties that have the wherewithal to deal with these problems, and you've got to consider other parties that might want to be involved in the fray. They don't have those kinds of resources to deal with it. He's asking for more power in terms of fining than any other jurisdiction in Canada. I don't see why we should be the leader in this area. Why should we?

Mr. Peter Kormos: I agree.

Mr. Norman W. Sterling: I mean, fine, give them the right to enter into these agreements; give them the right to do temporary suspensions. That's fine. That means there's pressure being applied and something's going to happen—

Mr. Peter Kormos: I think in many respects it's a disincentive to comply, because let's say a small party, a Green Party that's got 3% of the vote—when he starts talking about fines, people are going to run like the wind. There won't be anyone left in that riding association. So then you're even less likely to have people around to produce the written material and the documentation.

The Chair (Mr. Greg Sorbara): Okay. While I encourage—

Interjection.

The Chair (Mr. Greg Sorbara): Pardon me?

Mr. David Zimmer: Sorry, I have to be in the chamber five minutes before 10:30.

The Chair (Mr. Greg Sorbara): Away you go then.

Mr. David Zimmer: But I don't want to leave this committee without a quorum.

The Chair (Mr. Greg Sorbara): Okay. We've got a little bit of housekeeping. Just to close off the discussion on enforcement, all I would suggest is that all of us re-look at the areas Mr. Johnston referred to in the report of the Chief Electoral Officer and we'll come to some sort of landing on this. This isn't make or break, but we'll see where we want to land on enforcement.

Now, we've been through those recommendations. I, for one, think we need to now start moving toward the crafting of a report. There are a lot of areas where we do not have a consensus yet, but I think one can emerge. The clerk tells me we have some housekeeping to do.

Mr. Norman W. Sterling: Can I just say what I think the next step would be for me? I would like our researcher, Mr. Johnston, to have a couple of weeks to prepare a summary of the discussions. Some of the recommendations have shifted and changed since my last consultation with my caucus and party. I like the table, which he was kind enough to prepare based on your original draft, and now another table and perhaps even another section where there seems to be one or two or three options that we're considering.

The Chair (Mr. Greg Sorbara): Could that be in the form, Norm, of a draft report where the areas to be resolved are highlighted? I've never overseen the creation of a committee report in this Legislature, so I'm open to the recommendations of the members of the committee, the clerk and the staff.

I think we all want the same thing. We want to move toward a document that ultimately becomes a report, and my hope and expectation is that a draft piece of legislation is appended to that report.

The Clerk of the Committee (Mr. Trevor Day): If Larry is amenable to it, putting together something that says there is some agreement in areas and that's fine, and that there are some areas where there's more than one option being floated; if that took the form of something that looked like a draft report similar to what Mr. Sterling was talking about—

Mr. Larry Johnston: It could easily turn into a draft report.

Mr. Peter Kormos: Yes. There isn't going to be agreement on everything in the report unless you want to invite dissenting/minority reports. But the report that could avoid that would simply begin by starting off, "These are the things that all three caucuses agreed to," and then deal with the others.

The Chair (Mr. Greg Sorbara): Okay. So what other housekeeping do we have?

The Clerk of the Committee (Mr. Trevor Day): There was mention of inviting the privacy commissioner at some point, MPAC at some point and the Chief Electoral Officer to come back to see how this by-election went in terms of some of the special polling.

In a timeline for that, what would the committee be looking at? Are we not there yet? Would they like to see the draft report first and then we'll bring people back in as we tighten things up? Just some views from the committee.

The Chair (Mr. Greg Sorbara): We'll start with David.

Mr. David Zimmer: I'd like to see the draft report first and then see who we want to hear from.

Mr. Peter Kormos: I agree.

Mr. Norman W. Sterling: The only thing I'd like to flesh out is what an address authority looks like and how that relates to the Chief Electoral Officer.

The Chair (Mr. Greg Sorbara): Here's what I'm going to suggest. We've got a two-week period where we're not sitting: I'm away a good part of next week, and the week after that the Legislature is not sitting. So I actually think that whilst Larry Johnston is going about his work, we could profitably meet in weeks three and four and have an opportunity to bring Greg Essensa back—we'll have more intelligent questions, and he'll have just gone through a by-election; that's the first point—and get MPAC here to answer issues on an address authority. But I wouldn't want to wait until we have a draft report before getting into that, because I think that in weeks three and four we can hear from those folks. I'm not as concerned about the privacy commissioner issues, but if members of the committee are, we'll have her here.

Mr. Peter Kormos: In view of the fact that we've got a better understanding of what this address authority is all about, and that its goal is to create uniform identifiers for addresses and impose those on any number of authorities, the people with the real interest in that are emergency measures people. We have a provincial emergency measures—he's not a czar anymore, because Fantino moved on; he's just a prince or a duke—but why aren't we asking them to come here?

The Chair (Mr. Greg Sorbara): Why MPAC?

Mr. Peter Kormos: That seems to be something they would have a vital interest in.

Mr. David Zimmer: May I go?

The Chair (Mr. Greg Sorbara): Yes.

Mr. David Zimmer: It's not going to mess up the work of the committee?

The Chair (Mr. Greg Sorbara): Nope.

Mr. Peter Kormos: Yeah. We'll have no quorum.

The Chair (Mr. Greg Sorbara): You go on with keeping the place in shape upstairs.

Mr. David Zimmer: Mr. Chair, if any votes are necessary, I would ask you to cast my vote for me as you know I would cast my vote.

Interjections.

Mr. Norman W. Sterling: In terms of priority, I would actually prefer to hear from the Chief Electoral Officer, and something about the address authority, even before I go back to my caucus and talk to them.

The Chair (Mr. Greg Sorbara): And I'm proposing that we try to make that the substance of our meetings in the third and fourth weeks of March.

Mr. Peter Kormos: Look, we don't know; after this weekend I may not be a member of this committee.

The Chair (Mr. Greg Sorbara): How could that be?

Mr. Peter Kormos: The leader may not have confidence in my ability to represent the caucus.

The Chair (Mr. Greg Sorbara): Oh my God, that's right, two new members.

Members, could you just stay one more minute? One more item.

The Clerk of the Committee (Mr. Trevor Day): Legislative counsel has requested that perhaps we have a liaison who works between the committee and the drafter; someone who will take ideas and help turn them into legislative language on the other side. They've got a person they've mentioned: John Gregory, a general counsel in the AG's office—not in the AG's office, but—

Mr. Peter Kormos: He's inside.

The Clerk of the Committee (Mr. Trevor Day): Yes, someone who would work with the committee.

The Chair (Mr. Greg Sorbara): Okay, I'll do that. Agreed? Agreed.

Adjourned.

The committee adjourned at 1024.

CONTENTS

Thursday 5 March 2009

Review of election legislation.....	EL-59
--	--------------

SELECT COMMITTEE ON ELECTIONS

Chair / Président

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Howard Hampton (Kenora–Rainy River ND)

Mr. Gregory S. Sorbara (Vaughan L)

Mr. Norman W. Sterling (Carleton–Mississippi Mills PC)

Mr. David Zimmer (Willowdale L)

Substitutions / Membres remplaçants

Mr. Peter Kormos (Welland ND)

Clerk / Greffier

Mr. Trevor Day

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Research and Information Services

EL-8



EL-8

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Mardi 24 mars 2009

Select Committee on Elections

Review of election legislation

Comité spécial des élections

Révision de la législation
électorale

Chair: Greg Sorbara
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON
ELECTIONS

Tuesday 24 March 2009

COMITÉ SPÉCIAL DES
ÉLECTIONS

Mardi 24 mars 2009

*The committee met at 0905 in committee room 1.*OFFICE OF THE CHIEF ELECTORAL
OFFICER OF ONTARIO

The Chair (Mr. Greg Sorbara): The committee is now in session. Just to begin, I want to welcome the Chief Electoral Officer of Ontario, and Loren Wells, the deputy chief electoral officer of Ontario.

Just to let committee members know, we are going to end this morning at five minutes to 10 so that members of the assembly can participate in a mace ceremony. I'm going to be brutal, Greg, with the committee members and give you as much time as possible, along with Loren, to make your submissions. But I do think there are going to be a number of questions, so why don't we get the discussions under way right away?

Do you have any preliminary comments, Peter, or anything that you need to think of today? No. Same with you, David?

Mr. David Zimmer: Nothing. Thank you.

The Chair (Mr. Greg Sorbara): Okay. Over to you, Greg.

Mr. Greg Essensa: Good morning, Mr. Chair, members of the committee, and members of the public and staff.

I appreciate having the opportunity to appear before the committee for a second time to discuss the results of the pilot program that Elections Ontario conducted in the recent by-election in Haliburton-Kawartha Lakes-Brock.

I'd like to begin by explaining the legislative framework that allows the Chief Electoral Officer to conduct a pilot program in a by-election. Under section 4.1 of the Election Act, the Chief Electoral Officer has the power to use voting equipment, vote-counting equipment or alternative voting methods in a by-election. The act requires me to issue a directive describing the equipment in detail, along with the provisions of the act that will not be complied with. Copies of this directive are provided to the Speaker and the leader of each registered party 21 days before polling day and posted on Elections Ontario's website. The legislation also requires me, within four months of polling day, to report to the Speaker on the use of voting equipment, vote counting equipment or alternative voting methods and make recommendations regarding adoption of these methods on a permanent basis.

Today, I'd like to share with you my initial findings from the Haliburton-Kawartha Lakes-Brock by-election and discuss the potential use of voting equipment and vote counting equipment in future general elections.

Elections Ontario believes that the electoral process should be as accessible as possible so that all electors have an opportunity to cast their ballots. Barriers that may prevent people from voting should be removed, and voting should be as easy and convenient as possible.

The pilot program in the Haliburton-Kawartha Lakes-Brock by-election placed vote tabulators and assistive voting devices in all 10 advance vote locations—in the returning office advance poll from February 21 to February 26, and in nine other area advance polls from February 24 to February 26. The technology selected for the pilot project was the Dominion Voting Systems tabulator and their image cast ballot marker device. They were chosen via a competitive RFP process.

I want to be clear, though: Even though we introduced technology in the advance voting locations, all electors received a paper ballot. My assistant has a sample of the ballot that I will have her pass to each of the committee members so that you can see the type of ballot that was utilized in the actual advance poll.

The technology provided electors with three options to cast their ballot. The first option was the manual process, which is the usual voting process in an election, where an elector goes behind a privacy screen and marks their selection with an X. The second option allowed for voters with limited or no vision to mark and generate a ballot by following step-by-step audio commands using an interface, or for voters with limited vision to use a monitor to adjust a zoom control to better see the ballot. The third method allowed voters with mobility challenges to use either sip-and-puff technology, which simply means to puff to toggle through their choices and to sip to make a selection, or paddles that are available as well on the unit.

After the electors had made their selections, all ballots were scanned and counted by the optical scan tabulator.

Before deploying the technology in the field, Elections Ontario consulted with members of the disability community, including: the Canadian Paraplegic Association, the CNIB, the Alliance for Equality of Blind Canadians, the AODA Alliance, ARCH Disability Law Centre, and the March of Dimes. The consultation included a demonstration of the technology and a question-and-answer period. The pilot program was well received by the

stakeholders, who thought that it provided a viable solution to the challenges faced by electors with disabilities at the poll. The stakeholders were encouraged by the fact that the equipment provided equal access to the democratic process to all electors and indicated their willingness to work in partnership with Elections Ontario to promote the initiative with their members. Elections Ontario is in the process of following up with these organizations to see if their members would be willing to provide feedback on the ease of use of the equipment and their experiences upon using it in the field.

From Elections Ontario's perspective, the pilot was a success: 18% of the people who voted in the by-election, which is 6,359 of the 35,423, cast their ballots at the advance poll. In the returning office alone, almost 2,800 people voted using the equipment. Nine electors were able to vote independently using the accessibility equipment.

The technology that was employed has been successfully used in other jurisdictions as well. In the May 2008 municipal elections, New Brunswick used province-wide ballot tabulation and accessible voting. They had over 250 tabulators in over 100 municipalities. In addition, in the New York state fall 2008 primary and general elections, over 4,600 tabulators were used in 53 counties across the state. In the September primary election, over 1,500 electors used the accessibility technology, and in the November general election, approximately 4,200 electors employed this accessibility technology.

Looking forward, there is the opportunity for Elections Ontario to use accessibility technology in general elections. I believe that all electors should have the chance to cast their ballots in secret without assistance. In my submission, I recommended that the Election Act be amended to allow for the use of alternative voting equipment, vote counting equipment and voting methods during both general elections and by-elections. After personally visiting the region and seeing first-hand how the technology works in the field in this pilot program, I stand by that recommendation and respectfully request that the committee give consideration to allowing the flexibility to use technology in both general elections and by-elections.

Ontario's elections are based on three fundamental democratic principles: that electors and participants in the electoral process are fully able to exercise their democratic electoral rights; that electors and participants in the electoral process are served in a modern, responsive and efficient manner; and that election officials are accountable and the process we administer is transparent and impartial. With Ontario's current voting process, electors who have visual or physical challenges are denied the right to vote independently and in secret. This barrier to voting makes it difficult for many electors to exercise their Charter right to vote. Employing technology in general elections is a realistic and reasonable accommodation method to enable thousands of Ontarians to easily cast their ballot.

While at this point there is no business case for putting the technology in every single voting location on election

day, there is the opportunity to provide the technology during the advance vote period in a general election. If the committee were to see fit to recommend the legislative amendments, I would likely recommend that they place the technology in returning offices and their satellite offices, so that individuals with disabilities would have access to a method to vote independently in their electoral district. In future elections, I could see the benefit of having the technology in each of the area advance polls.

Is there a cost to using this technology? Yes, definitely there is. While ultimately the cost of the technology in the by-election pilot was zero, Elections Ontario did incur ancillary costs to support the use of the equipment. If we were to introduce the accessibility and vote counting technology to each of the returning offices and satellite offices—approximately 140 locations—there are a myriad of variables that need to be thoroughly examined before I am properly able to estimate a cost for a general election.

We know at this point that it does not make sense to purchase the equipment, since technology changes so rapidly and it would be too great an upfront cost. We are in the process of analyzing whether it would be possible to rent or lease the equipment, and if that is feasible, we would then need to determine the amount of support each returning officer would require. The results of all of this analysis will be included in my final report to the Legislature.

Other electoral agencies have also shown an interest in the accessibility technology. In fact, Elections Canada even sent a staff member to observe the by-election pilot. Over the course of the next few weeks, we will continue to have discussions with other electoral agencies to see if there is the possibility of a partnership to offset some of these costs. Again, all the analysis on the costing of the technology will be included in my final report to the Legislature.

In addition to enhanced accessibility, there are other benefits we observed from using the technology throughout the by-election. It simplifies the counting process and allows advance vote results to be released faster. It also allows the advance vote workforce to be redeployed on election day, since they are no longer required for ballot counting on election night.

In order for Elections Ontario to be able to introduce technology in the advance vote period of a general election, a legislative amendment would be required to move forward nomination day by a week. Additional time between nomination day and the start of the advance vote is required for ballot printing and distribution and to ensure that each of the machines has undergone a thorough logic and accuracy test.

The Chair (Mr. Greg Sorbara): Excuse me, Greg. Could you just repeat that? You're saying that in order to do what, we would need to have nominations move up a week?

Mr. Greg Essensa: If we were to be afforded the opportunity to use this type of technology in a general

election, it is my recommendation that nomination day would also need to be moved forward by a week to allow sufficient time for us to print the ballots, test the ballots and deploy them throughout the province. Currently, there is only a span of two days, and that's insufficient time for us to be ready for the advance vote period.

The Chair (Mr. Greg Sorbara): So you're talking about the close of nominations?

Mr. Greg Essensa: Correct.

The Chair (Mr. Greg Sorbara): The close of nominations currently is how many days before voting day?

Mr. Greg Essensa: It closes on the Thursday and then there are, I believe, three days before the advance vote. That would be insufficient time.

The Chair (Mr. Greg Sorbara): Right. So in effect, the implication of that for political parties is, "Get your candidate nominated a week earlier."

Mr. Greg Essensa: That is correct.

The Chair (Mr. Greg Sorbara): Okay. Sorry for the interruption. Carry on.

Mr. Greg Essensa: That's perfectly fine.

As per the legislation, I will be providing members of the Legislative Assembly, through the Speaker, with a detailed report on the Haliburton-Kawartha Lakes-Brock by-election. Today, I simply wanted to provide you with a brief overview of my initial thoughts and recommendations.

I'm now happy to open the floor to members of the select committee and to provide additional information on the by-election project or simply to clarify other subject areas that committee members have been discussing.

Thank you for the opportunity to appear before you today.

The Chair (Mr. Greg Sorbara): Thanks, Greg. We'll start with David.

Mr. David Zimmer: Have you had a chance to canvass the reactions of the campaign managers, candidates, voters and DROs about their sort of immediate reaction?

Mr. Greg Essensa: Prior to the use of the technology, we invited all the political parties to Elections Ontario for a demonstration of the vote counting equipment. We also invited all the political parties and the candidates to the media briefing, where we introduced the technology in the by-election. We also subsequently sent out surveys to candidates. We've been surveying the returning officers as well as some of the people who utilized the equipment in the field on election day. All that information is coming back to us, and we will summarize that in time for my final report to the Legislature.

Mr. David Zimmer: Is there any sense, anecdotally, about what their reaction was?

Mr. Greg Essensa: Certainly the staff who utilized it in the field found that it was very beneficial, because they didn't have the enormous workload of counting all the ballots at the end of the night. Very simply, at the close of polls on election night, you effectively turn a key, press a button and the results are printed, so in some of those very large advance polls where we had upward of 2,800 people voting, there was an enormous decrease in

the workload for those particular staff and the ability of the returning officer to deploy those valuable resources toward other needs on election day.

Mr. David Zimmer: So it was, anecdotally anyway, all a positive reaction. There was nobody calling in and saying, "It didn't work. I don't understand it."

Mr. Greg Essensa: No. During the advance poll, I actually visited all 10 sites personally and observed many electors going through the process. There was very, very little reaction whatsoever. They were curious about the actual technology and how it worked, but all the comments we received back were very positive.

Mr. David Zimmer: For people like me who are technologically challenged and some of those people working in the polls, do you have any sense that they had any trouble picking up the technology?

Mr. Greg Essensa: No. During the pilot, as part of the contract with the vendor, the vendor actually supplied a staff member whom we deputized as an election official to actually operate the equipment. That individual, because of their familiarity with the equipment, was able to help electors who were accessing the accessibility features very thoroughly and provide them with a real comfort on exactly how to utilize the equipment and cast their vote independently.

Mr. David Zimmer: In the event that technology was used province-wide, how would you get the people up to a technological level that they wouldn't need one of these assistants from the company?

Mr. Greg Essensa: Internally, we are looking at how we would provide an appropriate training program so that every one of the individuals be operating that piece of equipment would have adequate training and comfort to be able to provide the same level of service we were able to provide during the by-election.

Mr. David Zimmer: So the training to operate the piece of equipment is not something you could sort of pick up in a half hour and run through. You need some real—

Mr. Greg Essensa: No. There is no question that it's a bit more extensive than that, because there are multiple choices the elector can utilize to actually exercise their right to vote. They can simply use what's called a tactile device if they are visually impaired, or there's the ability for them to use a sip-and-puff technology if they are mobility-impaired or to use actual paddles.

0920

Mr. David Zimmer: So in effect, you need somebody like a help desk person at each—

Mr. Greg Essensa: You need someone who has a little bit more extensive training than we would normally go through for our deputy returning officers. That's what we're investigating now internally, about how much additional support the returning officers would need to provide to this, how much additional support Elections Ontario would need to provide, in essence, to have a more complete costing of what might be incurred for a general election.

Mr. David Zimmer: Any anecdotal sense of what the additional costs were to run these polls for the trial project?

Mr. Greg Essensa: We're in the final process of costing that now. Because it was a pilot, we certainly employed a number of our permanent resources to be supportive of that, as well as for our ability to assess what additional workload would be placed upon Elections Ontario and the returning officers. Anecdotally, I would suggest it probably was a couple of thousand dollars—no question in—

Mr. David Zimmer: A couple of thousand—sorry?

Mr. Greg Essensa: Thousand dollars; several thousand.

Mr. David Zimmer: Per?

Mr. Greg Essensa: No, for the entire pilot itself.

Mr. David Zimmer: For the whole pilot. All right.

The Chair (Mr. Greg Sorbara): Okay. I'm going to go to Mr. Kormos next. I want to get a sense of exactly what went on in the by-election. Greg, did you use these vote counting machines for all ballots cast, including ballots on election day?

Mr. Greg Essensa: No, we did not. We only used them during the advance vote period.

The Chair (Mr. Greg Sorbara): A lot of people without any specific impairment come to the advance poll. They too would get a ballot of that type?

Mr. Greg Essensa: Yes, they would.

The Chair (Mr. Greg Sorbara): So it was only at the advance polls. In visualizing new technologies down the road, do you anticipate that that kind of counting technology would be used at each of the polls on election day?

Mr. Greg Essensa: I think, Mr. Chair, the cost-benefit analysis would make that difficult in this particular period of time.

The Chair (Mr. Greg Sorbara): Right. Okay, good. I just wanted to clarify that.

Mr. Norman W. Sterling: Could I just ask before—

The Chair (Mr. Greg Sorbara): Norm?

Mr. Norman W. Sterling: Just to get the facts straight here, how many people voted at the advance polls using these machines?

Mr. Greg Essensa: There were 6,359.

Mr. Norman W. Sterling: And is there a category of people who—and you said nine people—

Mr. Greg Essensa: That is correct. Nine people accessed the accessibility features available on the technology.

Mr. Norman W. Sterling: So nine of 6,359. The other 6,350, did they mark a ballot?

Mr. Greg Essensa: The ballot that was distributed to you—they would have received the exact same ballot. They would have received exactly the same ballot as the person accessing the disability features of the technology.

The Chair (Mr. Greg Sorbara): How did Red Kelly do on the advance poll?

Mr. Norman W. Sterling: So they didn't receive the same ballot as a person voting at a polling station did on election day?

Mr. Greg Essensa: No. The ballot that was utilized on advance poll was very similar to the one that you have before you. The one that was utilized on election day was a traditional ballot that is used in a manual hand count. It did not look like the ballot that's before you.

Mr. Norman W. Sterling: What would be the difference, one to the other?

Mr. Greg Essensa: Primarily, it's in the size. The ballot that you have before you is obviously on a larger piece of paper, and you'll see on the outside that there are a bunch of black marks that are timing marks that the tabulator uses to be able to tabulate that. What we used on polling day in the traditional polls was a traditional ballot, which we've been using for many, many years; the same ballot that you would have used in the 2007 general election.

Mr. Norman W. Sterling: Okay.

The Chair (Mr. Greg Sorbara): So this size ballot is simply fed into a machine?

Mr. Greg Essensa: That is correct, yes.

Mr. Norman W. Sterling: Now, was there any recount done after?

Mr. Greg Essensa: No. We do what is called a logic and accuracy test. So in fact prior to the election, we take each of the tabulators and we put through a pre-audited set of ballots. So we pre-audit a set. We manually mark a vote for every candidate. We go through all the accessibility features and ensure that they are able to tabulate a mark and an accurate vote for every one of the candidates. We feed the pre-audited set through every tabulator prior to election day and ensure that those results are accurate. We then, subsequently, do that same pre-audited test after election day to ensure that the tabulator was working correctly prior to election day and subsequently after election day.

Mr. Norman W. Sterling: But you did not recount the 6,359 ballots—

Mr. Greg Essensa: No, we did not.

Mr. Norman W. Sterling: —to match up what the machine said and what—

Mr. Greg Essensa: No. We have not done that.

Mr. Norman W. Sterling: Okay. Thank you. I have some other questions, but you go ahead, Peter.

Mr. Peter Kormos: I've already written in "Tie Domi." Does that make me a bad person?

Down where I come from in Welland, municipally this is the sort of thing they've come to use, where the ballot still exists; it's not pull a lever or that type of stuff. So for recounts, because we have again yet another remarkable and interesting submission from Ed Wilson, a returning officer, who writes about the need to have some physical ballot somewhere along the line. What do communities do now? Do they own these ballot-counting machines? I agree with you: The rate of technological change is so rapid; we all know that. We thought we were miracle workers with our little laptops five years ago and they're

obsolete within a year. How do municipalities and other jurisdictions deal with that rapid change in technology?

Mr. Greg Essensa: It is my understanding that most municipalities, actually the larger ones in Ontario, tend to own their equipment. So the larger jurisdictions such as Toronto, Ottawa and Hamilton have actually purchased their equipment. The smaller jurisdictions, some of them look to rent or lease the equipment in partnership with other jurisdictions from across the country. I know down in the Welland area, St. Catharines had rented equipment from the city of Winnipeg for years and utilized their equipment. So it depends on, traditionally, I would say, the size of the jurisdiction, but the larger jurisdictions in Ontario have traditionally purchased the equipment.

Mr. Peter Kormos: The reason I'm asking this is, how do you get control of that? Look what happens every time there's a computer contract tendered: There's chaos and scandal almost inevitably, whether it's here at Queen's Park, whether it's Toronto city hall. How do you get a handle on this to make sure that you're up to date with the technology but that you're not simply being scammed every step of the way by people promoting the equipment?

Mr. Greg Essensa: Certainly it would be my recommendation, through the committee, that at this particular time I do not believe that there is a business case to actually go out and purchase the equipment. I do believe that with fixed date elections and, as you allude to, the rapid change in technology, the actual process would be to look to rent or lease the equipment so that we in fact could, election by election, ensure that we have the most up-to-date technology if possible and assess it after each election, as opposed to entering into a long-term capital purchase process.

Mr. Norman W. Sterling: Can you provide us with that business case? What are the costs?

Mr. Greg Essensa: Currently, the cost to actually purchase one of these—the tabulator that we used in this most recent by-election, the cost to purchase, that retails around \$11,000.

Mr. Norman W. Sterling: Per machine?

Mr. Greg Essensa: Per machine, to purchase.

Mr. Norman W. Sterling: Are there two kinds of machine, one with the features to allow the nine people to vote and the others just the ballot part?

Mr. Greg Essensa: Yes, there are.

Mr. Norman W. Sterling: How much of the \$11,000 is associated with one part and the other part?

Mr. Greg Essensa: My understanding is that it's approximately \$6,000 for the actual tabulator component and about \$5,000 for the actual component with the accessibility features.

The Chair (Mr. Greg Sorbara): I just want to interrupt right now and go to Peter Kormos, who has a supplementary.

Mr. Peter Kormos: That's precisely the point: \$11,000 per polling station with technology that's rapidly changing. That hires a whole lot of returning officers to do manual counting, doesn't it?

Mr. Greg Essensa: It does alleviate that requirement for those deputy returning officers at the end of the night to come back, in essence, and do all of that manual counting. Those staff who are employed during the advance poll would then be available to the returning officer to be redeployed on election day in some other capacity.

Mr. Peter Kormos: But I'm saying at \$11,000 per machine, and even if a machine is good for two election periods, eight years, \$11,000 per poll pays for a whole lot of \$25-an-hour people, even \$25-an-hour people counting ballots.

Mr. Greg Essensa: That is if we were to look at the aspect of purchasing the machines. It would not be my intention. I do not believe that there is any business case to support the actual purchase of the equipment.

Mr. Peter Kormos: You say Dominion was the operator that provided the equipment?

Mr. Greg Essensa: Dominion Voting Systems was the winner of the RFP and provided it.

Mr. Peter Kormos: I can't help myself. Where are they based?

Mr. Greg Essensa: They're based here in Toronto.

Mr. Peter Kormos: Thank you.

Mr. Norman W. Sterling: You said they use these machines in New Brunswick. What did it cost them for their technical help, the machines, the training, the whole set-up?

Mr. Greg Essensa: At this point, Mr. Sterling, that's part of the research that we're doing. I don't have those figures in front of me, but we can certainly get that information back to you, and I'm happy to endeavour to get my office to provide that answer to you.

Mr. Norman W. Sterling: As well as the number of people who use the accessibility feature?

Mr. Greg Essensa: Actually, that we did find out. We did contact my counterparts in New Brunswick. They did not collect the number of individuals who actually utilized the accessibility feature, but in our discussions with Dominion Voting Systems, which was the same vendor in New Brunswick, they indicated that 40 individuals actually utilized the accessibility features during their election in 2006.

0930

Mr. Norman W. Sterling: Across New Brunswick?

Mr. Greg Essensa: Across New Brunswick.

Mr. Norman W. Sterling: Did they have them at each polling station?

Mr. Greg Essensa: They had 23 sites across the province with the accessibility features available. So within those 23 sites, 40 individuals utilized those accessibility features.

Mr. Norman W. Sterling: What did it cost per polling station in New Brunswick?

Mr. Greg Essensa: Again, I don't have that figure, but I will endeavour to get that information to you and to the committee.

The Chair (Mr. Greg Sorbara): Okay. Just a couple of comments on the experience in Haliburton-Kawartha Lakes-Brock: First of all—

Mr. Norman W. Sterling: I guess—sorry.
The Chair (Mr. Greg Sorbara): Go ahead.

Mr. Norman W. Sterling: The problem I find here is, basically we're going to spend this money and complicate the process in order to have a faster count at the end of the night, presumably no more accurate than what would be done by people who counted ballots manually.

As well, we're going to allow a very, very small number of people to vote independently. In nine elections, I have never heard a Chief Electoral Officer or local returning officer say to me that there was any complaint about somebody going in with their friend and marking a ballot for them. I know it would be preferable if they could do it on their own, but most people have a trusted friend or family member who's not going to do away with their wishes, in terms of who they mark the ballot for.

The part that scares me in your presentation is that when you introduce these machines—it's not like a personal computer, or whatever it is; you've got to have somebody there who's knowledgeable about what goes on—the chance for a foul-up seems to be much greater than sticking with the present system.

Mr. Greg Essensa: I would counter that by indicating that one of the basic principles of democracy is that each individual elector is entitled to vote completely independently, in secret. It's a founding principle of democracy. Certainly, since I have become Chief Electoral Officer, I've been made aware of many, many correspondences through the Chief Electoral Officer's office from various disabled groups indicating their very strong desire to see a change in the electoral process that would allow them to vote completely independently.

This was a pilot. It was my opportunity to pilot this and provide my findings back to the Legislature. Ultimately, it will be the decision of the Legislature to make that determination. But what I am confident in is the fact that this type of technology ensures the basic integrity of the election, because it maintains that paper ballot. It maintains that piece of paper. After the election, if there is any dispute whatsoever about the counting, we can always move back to a traditional manual recount of that process. From my perspective, maintaining that integrity as we move through in advancing and modernizing the electoral process is a key ingredient in why I'm supporting this recommendation.

The Chair (Mr. Greg Sorbara): I think the Chief Electoral Officer makes the point eloquently. Certainly, Norm, the notion that, historically, people who have needed the assistance of a friend—that has happened. But two things: the point made by the Chief Electoral Officer; and the fact that there is an Ontario accessibility act, which Elections Ontario is required by law to adhere to. That is going to drive this agenda. The fact is that it is going to be, in some instances, expensive in terms of the equipment. That's all part of the reality that democracy is an expensive process, but it's the best one we've developed so far.

Mr. Norman W. Sterling: I don't know how you can have one of these at every polling station. And if you

follow that argument, I don't know how you can say that some people who would need this kind of accessibility—you can't be half-baked on this. I understand the argument, but I'm saying let's be realistic about the cost.

The Chair (Mr. Greg Sorbara): I don't think it leads to the argument that one needs to have all this technology at every polling station.

I think Mr. Kormos had his hand up.

Mr. Peter Kormos: I agree with Norm, and that's the whole new direction in terms of accessibility: It's not the ramp up to the back door; it's accessibility.

I agree with you, Chair, that people should be encouraged to take a look at the technology on an ongoing basis, as it develops and evolves, with the goal of creating universal access to a private voting process. I'm just worried about the rate at which technology changes, especially in this type of thing. Is it even set up at your office—any of these machines?

Mr. Greg Essensa: We actually have the equipment at our office, and I would be happy to entertain the committee members if they would like the opportunity to actually—

Mr. Peter Kormos: I'd like to actually see it—

Mr. Greg Essensa: Sure.

Mr. Peter Kormos: —just to get more familiar with it, more comfortable.

The Chair (Mr. Greg Sorbara): I'm sure you could be accommodated in that regard.

Mr. Greg Essensa: I'm happy to do that.

The Chair (Mr. Greg Sorbara): But along this line and getting back to the direction of our report, in your submissions earlier on, you had five key goals that you thought should drive reform, and I think the committee members are informed of those. We have not yet formally adopted those as principles that would drive our report, but I'll put my position on the record: I think we should do that. However, there are a couple of other principles that I would add to that and that relate back, in part, to this question of technology.

The sixth would be harmonization with the federal act, which you allude to periodically in your report, and which I think might stand as a principle or objective for reform. The seventh is electoral service rationalization. That's not a good phrase to describe what I'm thinking about, but it really means the legislated mandate to create an organization with a broader capacity to provide, in a sense, back office services for elections at whatever level that take place in Ontario. That relates back to the use of technology, because I think the only way to afford the kind of technologies we're going to need is to work in co-operation with municipalities, which have always had a fixed election date, and the federal system, which pretends it has a fixed election date, and use those technologies in a shared way, and perhaps for Ontario to be the leader in coordinating that capacity at three levels.

Mr. Greg Essensa: I would certainly concur in those remarks, Mr. Chair. I have always been of the opinion that at the end of the day there is one voter we serve who votes at all three levels of government and the process

should be as consistent as possible among the three orders. So looking at electoral service rationalization, I believe I made comment in my written submission that I am a proponent of examining that in much greater detail.

The Chair (Mr. Greg Sorbara): Any other questions on this issue of technology and the report on the experience in the by-election?

Mr. Norman W. Sterling: When are we going to get the cost numbers?

Mr. Greg Essensa: Mr. Sterling, we are endeavouring to provide that as quickly as possible. The by-election just concluded on March 5. My staff is actively trying to get that information to the committee prior to the finalization of its deliberations, so that you would have a more complete picture of what those costs are. I will make the commitment today to try to get you those numbers as quickly as possible.

0940

Mr. Norman W. Sterling: In capital cost and on a lease—

Mr. Greg Essensa: Absolutely.

Mr. Norman W. Sterling: —and what additional technology costs would be associated with the election—

Mr. David Zimmer: Sorry, Norm?

Mr. Norman W. Sterling: The capital cost, as well as doing it on a lease basis and what additional resources the election office would need in order to run the election smoothly and ensure that the people who are operating these machines know what they're doing.

The Chair (Mr. Greg Sorbara): Okay, we'll try to get that as quickly as possible.

We have about 15 more minutes before we go upstairs to attend to other duties. I'm wondering whether members of the committee have other questions at this time to direct to the Chief Electoral Officer. I know that I have some questions arising from the report, but I'll go around to the committee first and finish with my own questions if there's time.

Mr. Kormos.

Mr. Peter Kormos: You will recall, Chair, that we mullied over the model for a municipal address authority. Do you want to have Mr. Essensa address that today?

The Chair (Mr. Greg Sorbara): I think that's going to be part of a longer discussion. I should say that I've had a brief synopsis of the issues sent to me, prepared by the president of the Municipal Property Assessment Corp.; I haven't really gone through it in detail. Maybe we ought to start out there. Greg, do you want to talk a little bit more about an address authority?

Mr. Greg Essensa: Certainly. As per my submission in December and in my written submission to this committee in February, I believe there needs to be an address authority in Ontario. Subsequent to my submission and based on some of the comments I read in the Hansard, we have investigated within Elections Ontario whether or not Elections Ontario should be the body responsible for that. We have certainly looked at the prospect and all issues pertaining to that.

There is a possibility that we could envision where Elections Ontario would in fact be the address authority and provide a portal access to municipalities. Municipalities would still be responsible for the naming convention and providing the names of new subdivisions and street name changes. That information would then flow through the portal from Elections Ontario to all the various ministries or agencies that require the information, whether it would be the Ministry of Health, the Ministry of Transportation, etc. We have certainly investigated and looked at that as a possibility. We have also been in contact with the Municipal Property Assessment Corp., and I have had several discussions with their chair about the prospect of MPAC as well providing that type of service.

Fundamentally, from my perspective, I do believe there needs to be an address authority in Ontario, not only for the electoral reasons I have outlined in my report, but there are also additional reasons, whether they be EMS 911 reasons, that this committee should give some serious consideration to establishing that.

Mr. Peter Kormos: We had to reflect on what was really being talked about when you talked about an address authority, and it really is in that emergency measures sense: paramedics, police and firefighting services. If the real focus is emergency response—I suspect that's where the crisis is—because we have an emergency measures organization in the province of Ontario, would that be a suitable organization to do this in?

Mr. Greg Essensa: If they have the capabilities and capacities to do so, I would not object to that whatsoever. Fundamentally, from my perspective as Chief Electoral Officer to ensure the permanent register of electors, some of the challenges I have articulated in the past, the fact that there are multiple naming conventions for various parcel property within the province, then we do need an address authority—a single entity, a single body—but Mr. Kormos, I would not be opposed to that scenario. From my perspective, it's more important that this committee charge some entity or agency within the province as being that address authority.

Mr. Norman W. Sterling: Is there an address authority in another jurisdiction in Canada?

Mr. Greg Essensa: Yes, there is. In Quebec, it is the actual Chief Electoral Officer. Their office is the address authority. All naming conventions flow through their office, and they provide that information back out to the various ministries that need it.

Mr. Norman W. Sterling: And in the United States?

Mr. Greg Essensa: That I am unaware of, Mr. Sterling. I'm not sure of the actual process that is utilized. I believe, based on my experience in various US elections, it would be done at the state level, and it might vary from state to state, but I'm not familiar with exactly how that unfolds.

Mr. Norman W. Sterling: Mr. Johnston has a question for you.

Mr. Larry Johnston: Mr. Essensa, what is the term used in Quebec to describe the Quebec address authority? I cannot find that term in the law.

Ms. Loren Wells: If I may, it's a term used in the Québec election act. It's called *registre des territoires*, register of territories.

Mr. Larry Johnston: Thank you.

The Chair (Mr. Greg Sorbara): There are really two issues here. The first issue is whether we want to move to empower an address authority. There are lots of obvious benefits to a variety of agencies of government and the private sector. There was a time before the creation of time zones that the time was somewhat different in Windsor, Ontario, than it was in Kingston, and then we created, right here in Canada, standard time zones, and the benefits were pretty good. The issue is whether or not in Ontario we want to create an address authority, and then the sub-issue is, if so, what agency of government is most suited to undertake that work.

I don't think we've landed on an answer to either question. I've had, as I said, a conversation with Carl Isenburg, the head of MPAC, and now have some written submissions. You will not be surprised to hear that from his perspective, it's more complicated than it looks on the surface. There are a lot of sub-issues as to what kind of an address authority you would have and for what purposes. No one would be surprised to hear that the creation and maintenance of that kind of an authority is not an inexpensive endeavour. So what I propose is that at some point, we get more information to committee members and have a broader discussion.

I think there is one thing that, from our perspective, is clear, and that is that if an address authority were in existence in Ontario, it would make the job of deploying elections and creating a list of electors significantly easier for Elections Ontario, and that would be a good thing. Is that not the case?

Mr. Greg Essensa: I would certainly concur with that. One of the greatest challenges we have currently, as I believe I expressed in my December meeting, is the fact that within Ontario, there are multiple naming conventions to particular parcels of property, especially in the rural parts of the province. It creates an enormous challenge for Elections Ontario, when we receive multiple naming conventions from an elector and we are trying to articulate exactly where that elector actually resides, to be able to communicate with them and ensure that we are sending them to the appropriate polling division on election day. It subsequently creates enormous challenges for the candidates and the parties when we cannot authenticate exactly where that parcel of property is. So I would concur with the Chair that, yes, this is a vitally important aspect, from my perspective.

The Chair (Mr. Greg Sorbara): Okay. Just on this, Mr. Zimmer and then Mr. Sterling.

Mr. David Zimmer: Just to push the debate a little more, having heard your remarks, Chair, and the remarks of the CEO, why wouldn't we, as a matter of policy, decide that's the direction we're going to go in and we'll figure out the details—costing and all that sort of stuff?

The Chair (Mr. Greg Sorbara): I think we would like to have a more in-depth discussion. I'm proposing that perhaps we have an opportunity to have Carl

Isenburg here with us and, before that, to have some data and information as to what the implications are, what the costs are etc., before we would recommend it to government. Mr. Sterling.

Mr. Norman W. Sterling: A couple of small issues were raised by returning officers who have written to us. One is that there is a proposal that the election clerk be hired by you rather than by the returning officer in the riding, who, in my experience, has been the second in command to the election clerk. It's very, very important that the returning officer and the election clerk see eye to eye and can get along. I mean, these are very trying times. Why would you not delegate hiring the election clerk to the returning officer?

0950

Mr. Greg Essensa: I would certainly include the returning officer in the process, but as outlined in my submission to this committee, for the same reasons that I was recommending to the committee that the appointment of the returning officer be empowered to the chief electoral officer, it's that the process be a fair, open and transparent process, a non-biased process, and that it be a merit-based appointment.

It would always be my intention to include the returning officer in that recruitment process, in that evaluation process, and to take very importantly what the returning officer's recommendations were. It would not be my intention at all to exclude them from that process, but I do believe, as a fundamental principle, of ensuring that it's transparent, it's open and it's based on a merit-based appointment process.

The Chair (Mr. Greg Sorbara): Mr. Zimmer?

Mr. David Zimmer: I just want to follow up on your point.

Mr. Norman W. Sterling: Okay. You follow on that, and I'll go next.

Mr. David Zimmer: Just picking up on Mr. Sterling's point of view: I know the answer to this, but who hires the returning officer?

Mr. Greg Essensa: Currently, it's through order in council.

Mr. David Zimmer: No, in your proposal.

Mr. Greg Essensa: In my proposal, it would be the chief electoral officer.

Mr. David Zimmer: So you hire the returning officer, and presumably you exercise critical judgment to get the best returning officer there. I'm picking up on Norm's point. Once you've got that key person in place and he has a measure of your trust and all of that sort of stuff, why wouldn't we, as Norm says, delegate the choice of his principal assistant to him? You've already made the decision that the RO is a person you have confidence in.

Mr. Greg Essensa: I can see some of the points—the arguments that have been made by the returning officers in the submission to you. It would still be my recommendation, however, that the election clerk be done in a very similar manner. The returning officer would, in fact, be—

Mr. David Zimmer: I understand that, but why do you think it's necessary to second-guess the returning officers? You've already made the decision that the returning officer is a person in whom you repose trust and confidence.

Mr. Greg Essensa: I think, to ensure the transparency of the process, there needs to be a similar, parallel process involved where the returning officer is involved in that selection. They would have valuable input into that—

Mr. David Zimmer: I understand, but why not just leave the whole thing up to the returning officer? You've already said he's a great guy or woman.

Mr. Greg Essensa: I think the various returning officers have various skills that they bring to the job—a wide variety of those skills. Some returning officers may need—because of their expertise in a particular area—an election clerk that has a particular expertise in a different area. I think that impartial assessment from my office is important to ensure that we in fact put the best team in place, to ensure that we can provide the best selection possible.

Mr. David Zimmer: But one of the things that we were trying to do was delegate a lot of this stuff. Aren't you fettering the returning officer?

Mr. Greg Essensa: No, I don't believe so, because I believe the process would ensure that we would have the best election clerk available. There are often periods of time where the returning officer is not able to fulfill their complete mandate. In this most recent by-election in Haliburton-Kawartha Lakes-Brock, the returning officer

was not there for the last four or five days. In fact, the election clerk had to substitute and fulfill that role. I think, to ensure that we provide—

Mr. David Zimmer: Yes. I got the point. Thank you.

The Chair (Mr. Greg Sorbara): Okay. A quick point from Mr. Kormos, and then I want to wrap up with another point.

Mr. Peter Kormos: I'm inclined to agree with Mr. Essensa about the need, if you're going to create this professionalization and avoid even the image of political patronage or buddy patronage, but surely the out is for you to say that of course you would consult the returning officer in the course of hiring people working with him or her.

Mr. Greg Essensa: That would be a viable option, yes.

Mr. Peter Kormos: Sure. That addresses your concern?

Mr. Greg Essensa: Absolutely. That's a viable option.

Mr. Peter Kormos: I agree with Mr. Essensa in this respect: If you're going to professionalize it—

The Chair (Mr. Greg Sorbara): Okay. We have no more time for any of this. I want to thank both Mr. Essensa and Ms. Wells for their submissions this morning. This committee is going to sit again—help me out, clerk.

The Clerk of the Committee (Mr. Trevor Day): Next Thursday.

The Chair (Mr. Greg Sorbara): Next Thursday, time to be determined. Don't you dare miss it.

The committee adjourned at 0955.

CONTENTS

Tuesday 24 March 2009

Office of the Chief Electoral Officer of Ontario	EL-71
Mr. Greg Essensa, Chief Electoral Officer of Ontario	
Ms. Loren Wells, deputy chief electoral officer of Ontario	

SELECT COMMITTEE ON ELECTIONS

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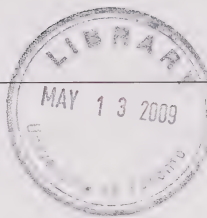
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EL-9

EL-9

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Select Committee on Elections

Review of election legislation

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON
ELECTIONSCOMITÉ SPÉCIAL DES
ÉLECTIONS

Tuesday 28 April 2009

Mardi 28 avril 2009

*The committee met at 1605 in committee room 1.*ACCESSIBILITY FOR ONTARIANS WITH
DISABILITIES ACT ALLIANCE

The Chair (Mr. Greg Sorbara): Okay, I'm going to bang the gavel. Note that we're beginning at 4:05. Welcome to the hearings of this select committee on elections.

My law school partner, David Lepofsky, who is the chair of the Accessibility for Ontarians with Disabilities Act Alliance, joined by Catherine Tardik and the inimitable John Rae—

Interjection.

The Chair (Mr. Greg Sorbara): I could begin this session with a lot of stories about the time that Lepofsky and I were studying law under the guidance of the wonderful Harry Arthurs—no, it wasn't Harry then, was it? Who was it, David? Who was the dean?

Mr. David Lepofsky: It was Harry Arthurs, and one of the two of us was studying, and I tried to remember. I think it was me.

The Chair (Mr. Greg Sorbara): No, Harry had retired as dean. Harry had retired as dean, and it was the guy who later became the head of the securities commission.

Mr. David Lepofsky: Stan Beck.

The Chair (Mr. Greg Sorbara): Stan Beck; that's exactly right.

Mr. John Rae: Could we possibly extend the time, Mr. Chairman, so we can hear some more of these stories?

The Chair (Mr. Greg Sorbara): The stories are all confidential. I can't destroy Lepofsky's reputation, and he wouldn't dare want to destroy mine. It's already tarnished enough.

Welcome to David, Catherine and John. For the purposes of this afternoon, we look forward to a presentation of about 20 minutes from the deputants and then a period for questions from committee members. Then, at around 5 o'clock, we're going to have a closed session to begin to put together the next steps for the work of this committee. Welcome, David, and I'll turn it over to you.

Mr. David Lepofsky: We want to thank the committee for affording us this opportunity to present. Over the past decade, both the current coalition that I serve and the predecessor that we took over for in 2005 have been, among other things, battling in a campaign to achieve

fully accessible elections in Ontario, elections in which voters with disabilities can fully and equally participate. We welcome the opportunity to address this to your committee. We are optimistic because in the last provincial election, we wrote each of your political parties—we being non-partisan—to ask you each whether, if elected, you would commit to achieve an accessible election action plan. All three of your parties agreed. We'd like to take you up on that and to tell you how we think it might best be done.

1610

To begin, my colleague John Rae is going to talk about just one of the kind of barriers that some folks with disabilities still face when seeking to participate in an election. John?

Mr. John Rae: I'm really pleased that this select committee has been established. Although here today we are representing the AODA Alliance, I do most of my work through the auspices of the Alliance for Equality of Blind Canadians, of which I am first vice-president. I can tell you that we've been meeting with Elections Canada for over 10 years and have not much to show for that time, and yet the province of Ontario only gave itself the power to look at alternate methods of voting before the last provincial election and here we are today. So I'm encouraged at the work you're doing. Also, I've just finished a brief to the review of the Municipal Elections, Act and I really do wish that the two could have been brought together so that we'd see one omnibus bill and not two.

My part is simply to say that I want to be able to participate in an election like you gentlemen can, and I don't think that's too unreasonable. From my standpoint as a blind person, what do I mean? Well, very simply, we all get literature through the door in print; I can't read. Your various parties establish websites that are getting better but I think have some ways to go. We all want to participate in candidates' meetings, and the last one that I went to in Ms. Wynne's riding was at a school where a friend of mine, Sharon Dever, who uses a wheelchair, had to sit at the bottom of the steps, couldn't get in; the press got interested in that problem. I, as a blind person, was confronted with the situation that in order to ask a question, you had to write your question on a card. Well, I got somebody to write it. Whether my question ever got into the box is something I'll never know.

The most important part is voting day. I happen to live in Toronto Centre, and while Toronto Centre is not

unique, we are different from some ridings in this province and in this country by the number of candidates we have. Ten is not unusual. We've had more, we've had less, but 10 is a decent average. So, for me, I get the ballot given to me in a template, I get the number of candidates read to me, and I go into the voting booth and mark my X. Then it comes time to leave the voting booth, and I will never know whether I voted for the candidate that I thought I voted for and the candidate I wanted to vote for. I'll never know for sure because, you know, it's print. You folks can run your eye down your ballot in the riding where you live and make sure you voted for yourselves—at least I assume you vote for yourselves. I want to be able to leave the voting booth knowing that I voted for my preferred candidate just like you and your friends and family do. Well, that involves alternative methods of voting, and I'm pleased that, in the last by-election that was just held, there was a test of a voting machine that looked good to me. I look forward to the results of that test and to the work of your committee in implementing a system that will remove that barrier and many others that can still confront the broad range of people with disabilities in this province who want to participate fully in the electoral process.

Just one more point: I'm speaking at York University when I get back from the west coast, and I'm going to talk about the legal system in this country, even though I'm not a lawyer—I should let David do this, but I'm going to do it anyway—and I'm going to start by talking about 1981, the International Year of Disabled Persons. That was operated with the theme, "Full participation and equality." That wasn't last year, gentlemen; that was 1981. It's time we achieved that goal. Thank you.

Mr. David Lepofsky: For a perspective on what was done in the 2007 election to achieve the goal that all voters would expect we had already achieved—fully accessible elections—Catherine Tardik will spend a few minutes giving a unique perspective. Catherine?

Ms. Catherine Tardik: Thank you, David. As a former employee of Elections Ontario's communications department, I had the unique opportunity to view the accessibility features espoused during the 2007 provincial election and referendum from a good vantage point. Part of my duties during the 2007 election and referendum included working on a variety of projects aimed at supporting Elections Ontario's accessibility features, specifically the information kits for electors with special needs, arranging for large print and for braille printing of householders, contacting stakeholder organizations and contributing to the training manual for Elections Ontario staff. During my remarks, I'd like to outline some of the challenges in relation to the accessibility of provincial elections.

In 2008, Elections Ontario completed a report on accessibility that speaks to the accessibility goals and outcomes of the 2007 election. This report includes details of Elections Ontario's efforts to achieve full accessibility. If you read it, it sounds very promising. Some of the measures it describes included providing tar-

geted information to special needs populations; accessibility at advanced polls and returning offices; reaching out to stakeholder organizations to provide them with election kits; updating the TTY phone system to incorporate new web technologies for persons who are deaf, deafened or hard of hearing; providing braille householders and householders on tape; training call centre staff to answer questions related to accessibility; and, last but not least, providing training specific to accessibility for poll officials.

I can attest that Elections Ontario planned to provide accessibility features during the 2007 election. However, intention is not the goal; delivering accessibility is the goal. Unfortunately, the way Elections Ontario acted on these initiatives clearly and significantly limited the outcome's effectiveness. This resulted in inconsistencies and service delivery gaps. The troubling result is documented in the aforementioned report on accessibility. The report claims that Elections Ontario received 100% accessibility at returning offices and advanced polls and 98% accessibility at poll locations on voting day.

Unfortunately, this optimism is flatly contradicted by the results of an independent survey detailed in the report that was completed by Ipsos Reid on behalf of Elections Ontario. According to the statistics found in the Elections Ontario accessibility report, the Ipsos Reid survey revealed that a very troubling percentage of electors with special needs reported facing barriers when participating in the electoral process. Fully 44% of electors with special needs reported that they encountered a problem on election day, with the majority of these involving challenges specifically related to physical barriers. Fifteen per cent of complaints specifically outlined challenges related to the ability to cast their ballots.

Given my first-hand experience working as an employee of Elections Ontario, it is my assessment that the Ipsos Reid statistics provide an accurate depiction of accessibility features during the 2007 election and referendum. In 2007, this outcome is simply unacceptable.

To illustrate my assessment, I will address two service delivery gaps: first, choosing accessible poll locations. The current Elections Act and Elections Ontario policy related to sourcing accessible returning offices and poll locations indicates that this duty is the responsibility of the returning officer in each riding. Based on my observations during the 2007 election, returning officers did, in fact, choose these temporary locations. However, it should be pointed out that returning officers made these decisions without training outlining how to best determine accessibility features of temporary locations, or with any reliance on best practices from other jurisdictions. When it came to accessibility training, returning officers and poll officials received training consistent with general special needs training concerning assisting electors with special needs. This training was provided to all Elections Ontario front-line staff, including the call centre. With regard to the training for the call centre, I can speak specifically to that as I was asked to provide the training to those staff members only two days prior to election day.

1620

Second, an important accessibility feature that was promoted in advance of the election was not in working order on election day. TTY services enable persons who are deaf, deafened or hard of hearing to directly communicate with others over the phone. The updated TTY technology that was put in place for members of the public to call did not work properly during election day. Approximately 40 TTY calls were left unanswered due to technical difficulties. Unfortunately, the call centre staff did not provide this information to the communications department or the IT department until after the polls had closed. Thus, it was not possible to fix the problem until it was too late.

Given my experience specific to the accessibility features offered during the 2007 election and referendum and the results of the Ipsos Reid independent survey, it is clear that Elections Ontario failed to fulfill its mandate to ensure consistent accessibility features for electors with special needs.

Before I conclude my remarks, I'd like to thank the committee for their time. As we near the 2011 election day, I would reiterate the alliance's position that time is of the essence when it comes to accommodating the needs of voters with disability.

Mr. David Lepofsky: Thank you, Catherine. Let me conclude with essentially three observations.

First, the goal is fully accessible elections, certainly by 2025. That's what the disabilities act that all three of your parties voted for requires. "As soon as possible" is what all parties voted for in a resolution in 1998—for accessibility across the board. There is no reason why we cannot have fully accessible provincial and municipal elections the next round coming up.

The second point is to give you a quick update on where, as far as we can tell, the government is in implementing its commitment to an accessible election action plan. As far as we can tell, there is no ministry in charge and no minister with lead responsibility on fulfilling that election commitment. What we do understand is that an interministerial task force of public servants was set up. We met them last fall. Their work was at an extremely preliminary tentative stage and we've been told since that they are awaiting the outcome of the work of your select committee before going further. At that rate, we are not going to meet any goal of full accessibility in the next provincial or municipal elections. By the way, we are aware that elections Ontario has been doing some work in this area and we commend their efforts. They too have agreed that legislative reform is needed to enable them to do all they wish to do.

Third, I'd like to quickly summarize the recommendations that we ask your committee to adopt. These are spelled out in more detail in our brief. We ask your committee to include in its report to the Legislature a recommendation that elections legislation be developed, tabled, introduced, debated and passed before the next provincial and municipal elections to address the issues. We know that your committee's mandate is only for

provincial elections but the barriers are identical, the solutions are identical and, by bringing the two together in one bill, the solution will be quicker than if it is left to separate policy silos. We ask your legislation to make mandatory needed steps to achieving accessibility and to implement monitoring measures so that we will know whether compliance takes place, not months after an election when we read an appalling report like that made public by Elections Ontario, but before the election, when we can fix things before voters are called upon to cast their votes.

We conclude by noting that some might think that it's good enough to turn to Elections Ontario and rely on professions of good intentions. We're confident that their intentions are good, but we've had comparable professions of good intentions from Elections Ontario for a decade. We have learned that leaving it to voluntary action, not legislative guarantees, will not provide accessibility. We learned that, and all three of your parties learned that, when you unanimously voted for the Accessibility for Ontarians with Disabilities Act in 2005. We are eager to work with your committee, with the government and, indeed, with all three parties on establishing a regime that will fix this: where possible, through legislation; where not possible, through an all-party accord.

We look forward to your questions, and we would be delighted to do whatever we can to assist you in your work.

The Chair (Mr. Greg Sorbara): Thank you, David, Catherine and John. We'll start with Mr. Kormos, and then move to Mr. Zimmer and Mr. Sterling.

Mr. Peter Kormos: I think the most interesting thing you brought to us is information about this inter-ministerial committee you met with, which says it now awaits this report. We didn't hear about them, and it would have been interesting to have them come and tell us what they had in mind, how far they had come along and what their goals were.

I've read your report and the recommendations, and I'm more interested in section 3, "What the Ontario Government Should Do," which is process. I'm asking, Chair, is there any interest in embarking on this? It's separate and apart from what this committee is doing right now, but is there any interest on the part of the government, especially with respect to section 3, in terms of getting that process back up and running? The committee is already there, apparently.

The Chair (Mr. Greg Sorbara): Obviously, David Lepofsky can't answer that, and I can't perhaps answer it as fully as you would like.

I am vaguely aware that the committee exists. Obviously the governing party is aware of its election commitment, and I absolutely agree with David Lepofsky and the committee that a more comprehensive approach solves more problems with one go. But this committee is authorized to look at the Ontario Election Act, and I think that that committee is waiting.

I do know there is discussion and work going on within the Ministry of Municipal Affairs as to amend-

ments to the municipal process for elections, and that's good. I think these issues will be addressed there. I know that Minister Meilleur is very seized of these issues and is driving and advocating, from her perspective, the changes that reflect the aspirations of the alliance.

It would be, perhaps, nice if we were champions of the whole affair, but we're not. I am hopeful, however, that if we get our report in quickly, and before government, then the rest of government will identify a direction and incorporate changes as other acts come before them, or perhaps at the same time. We have no control over how quickly government will move, but the more quickly we move and submit our report, the more quickly government will be able to respond. David?

Mr. David Lepofsky: If it assists, I offer two thoughts. First, if the question is whether this committee should say something about the municipal election regime when it's not what you've been tasked to do, I'd like to respond to what I believe was an issue Mr. Sterling may have raised at an earlier session of this committee, which was addressing the issue of the cost of providing accessibility.

1630

There will be costs in providing some of the measures we need. Some will require no cost, but if you undertake a joint initiative to provide for accessible provincial and municipal elections, you can split that cost between provincial and municipal elections. John and I have tried out a voting machine that would work to enable blind people and people with certain other disabilities to independently mark their ballot. It's not a cheap machine, but rather than having the province buy a set of them and then municipalities each expected to buy a set of them, if it was done through a joint legislative initiative there could be a cost-sharing approach, which saves everybody money. That, therefore, means that by this committee recommending a joint legislative initiative to address municipal and provincial elections, this committee will enable a quicker, lower-cost solution to accessibility of provincial legislation, and that is in your mandate.

Mr. John Rae: David, this is the same argument we made to Elections Canada—that if they moved first, they could probably get some of their expenditure back by renting those machines that they might buy to the provinces or municipalities. I'm happy to see that Ontario be first. Hey, I live in this province. So if we can lead, maybe the feds will get involved as well, as another way of offsetting some of the costs.

Mr. David Lepofsky: Maybe perhaps, when you're in your closed session and we're not taking part in this, you might want to consider, if all the members of this committee unanimously agree that it would be beneficial for these to be dealt with through a joint bill—you might put it in as a footnote, whether or not it's in the scope of your recommendations. It would certainly help us move it forward.

What is clear to us is that right now, there is no individual minister with the lead on complying with even provincial accessible elections. We know that from talk-

ing to political staff and we know that from talking to the interministerial committee that we met with last fall. All of your parties have been in government within recent memory and know that if there's no minister in charge of a particular issue, the odds of a bill coming forward aren't good.

The Chair (Mr. Greg Sorbara): I hear what you're saying about that. I want to respond to the coordination between the three levels that hold elections in Canada and in Ontario. I take it that you're referring to the voting machine that Elections Ontario used in Haliburton-Kawartha Lakes-Brock?

Mr. David Lepofsky: Mm-hmm.

The Chair (Mr. Greg Sorbara): I had an opportunity, along with my colleague David Zimmer, to have a trial and a demonstration of this machine. I was very impressed. I think that it responds to many of the concerns about independent voting that have been raised by the alliance. But the point that I wanted to make, David, is that I am hoping that—and I said this to Elections Ontario—if these technologies are part of the future, then a joint venture corporation or co-operative, perhaps led by Elections Ontario and involving Elections Canada and municipalities for provincial elections, might be put together to undertake the costs of the hardware, the training and the software, and then make those machines and technologies available whether Canadians are voting for a new provincial government, a new federal government or new municipal governments. Our report is going to urge Elections Ontario, I hope, with taking the lead in creating that coordinated capacity. Frankly, I'm not sure it requires legislation to urge on that co-operation, because nothing Ontario could legislate could force Elections Canada to co-operate in that way, but we will be, I hope, recommending coordinating efforts, particularly in service delivery, whether that be the compilation of voters' lists or the adoption of new technologies, the co-ordination of service delivery for all elections at no matter what level.

Now I'm going to go back to Peter Kormos.

Mr. Peter Kormos: We're going to have to talk, I suppose, at 5 o'clock, because number 3 in the written submission here seems to be something that this committee could very well recommend and urge. We talked about an address authority and its relevance to municipal elections, so we haven't operated in isolation of other elections. But it just seems to me—and we're being told that that type of recommendation, and obviously with the urging that a minister would be responsible for seeing it through, would be very helpful—that if this is unlikely to proceed, why wouldn't we do that, then? Why wouldn't we make that recommendation specifically in number 3 on the written submission?

Mr. David Zimmer: Sorry, Peter. I missed the—

The Chair (Mr. Greg Sorbara): Whether we do or not will be up to this committee. On the one hand, I have a desire to inspire through the report of this committee a new comprehensive Election Act for Ontario, but I am not averse to the notion that in our report we would

recommend, to quote the recommendations, a “central, accountable lead on the project, to oversee all work and bring forward legislation.”

My anticipation is that the ministry responsible for democratic renewal will be responding to this report—

Mr. Peter Kormos: That ministry doesn't exist any more.

Mr. David Lepofsky: We were told that that function has now been rolled into Cabinet Office. We've been trying to keep track—

The Chair (Mr. Greg Sorbara): Its successor, yes.

Mr. David Lepofsky: —of who's got it, but that's who's got it now.

The Chair (Mr. Greg Sorbara): That's right, but that function is still alive and well in government.

Mr. David Lepofsky: Right.

The Chair (Mr. Greg Sorbara): It's through those people that we will get a report. But I hear what you're saying about wanting a lead. We can't determine a lead; we can only recommend.

Mr. David Lepofsky: That's fair.

The other thing that I think is core to our presentation—Catherine's presentation summarized it, but it may be worth putting into the record the actual report of Elections Ontario on accessibility in 2007 because it really is a stunning report. If you read about the first 14 and a half pages, it sound great. It lists all the great things that were done, and they are all the right things to do, and if you just stopped there, you'd think, “Man, we've solved the problem.” Then they slip in this couple of paragraphs where Ipsos Reid reports that fully 44% of the people with special needs reported problems related to things like casting ballots, reading signs in front of the polling station or getting access to the polling station.

Now, there may be issues like new voting technology that are going to take some creativity, and it's great that that's under way. However, there is absolutely no reason why in the year 2007 or in the year 2011 there should be a single polling station in the province of Ontario that has not chosen to be disability-accessible. These are not buildings we buy; they are buildings or facilities that they go out and select in advance.

An example of what could be done under legislation is a requirement that the polling stations be pre-selected long enough in advance—maybe a year, maybe six months; we do have fixed election dates now—and those be made public so that people with disabilities can learn about them and, if they have any concerns about them, they can report them and have the polling station changed before the writ drops and before it's too late. There are ways to build this into legislation to provide for a low-cost but high-impact monitoring process. What's important is, we know that if we leave it to a non-legislative regime of putting on paper the right steps and professing good intentions, it won't solve the problem. It hasn't, time and again.

The Chair (Mr. Greg Sorbara): David, I want to go back to an important part of Catherine's remarks here before the committee which dealt with the lack of

appropriate training and time for training of election workers. Part of our report will, I hope, recommend a fairly different regime for creating the workforce that delivers elections. I think that's going to be very important because—well, just to use the example of poll clerks, who can't be selected until 10 or 12 days before the election. It's an absurdity to think that part of the workforce can be appropriately trained just to run the general election, let alone to deal with the challenges affecting those with accessibility issues. So I honestly believe that if we move towards a different regime for recruiting the workforce, we will have taken a giant step towards dealing with some of the issues that Catherine talked about. That's not to say that there need not be any specific legislative reference, I'm just saying that we think—I think, at least—for many practical purposes, some of the issues that this committee is dealing with in its report will address the issues you're dealing with in your submissions.

1640

Mr. David Lepofsky: We're heartened to hear that. We've obviously just put forward broad-brush recommendations. One of the things that we've recommended is, it's worthwhile to reach out to the disability community because they can provide you with many more ideas.

But let me just, if I may, take one of the points you've mentioned that's very important, and that's training, and highlight that while it's important, we would agree with you that it's not the sole solution.

Time is of the essence, as Catherine said, when it comes to elections. If the polling station is inaccessible and you find that out on election day, there's nothing you can do about it. You can't get them to move the polling station and go back and vote the next day. If polling stations are going to be selected all around the province, you can provide some training to the people doing the selecting, but if they don't have the background knowledge in accessibility, handing them a manual that's 500 pages thick—who knows if they'll actually read it? Being able to assimilate it and use that knowledge and make the right choice may be an unreasonable expectation of them, which is why, in addition to training, we need legislative safeguards such as a monitoring regime. The illustration I gave earlier would be a low-cost one. We'd simply make it public some months in advance so people can call up and say, “Maybe, using that training, you thought that place was accessible, but there's actually a real problem.” Then at least they can be alive to the problem before it's too late.

The other advantage of putting this all in legislation—you can't put everything in legislation, but putting in the basic benchmarks and requirements in legislation is this: You're proposing an Election Act that's going to stand the test of time; it's going to apply not just to the next election but to the next several. We don't want to have to come back after the 2011 election and find out that while there were some good ideas, they weren't legislated and we got another report like this one with 44% of voters

with disabilities reporting problems. We'd like it to be enshrined in legislation so we don't have to go back and fight, election after election, to preserve the gains made.

The Chair (Mr. Greg Sorbara): I understand that, although I do not believe that the legislation we hope emerges out of the work of this committee will be a perfect document. I would simply point out, for example, that I believe this committee is going to recommend legislative changes to create what's referred to at the federal level as special ballots. The special ballot or the mail-in ballot is not designed specifically for those with accessibility issues, but it will be a mechanism to assist a statistically significant portion of the population who, for one reason or another, didn't like proxy ballots; they are going to be able to vote for the first time. So there's a number of ways that we're going to attack this thing.

Mr. David Lepofsky: That's great. Perhaps what you may find most practical for this committee, given that you are hoping to get a report out relatively soon, is to recommend that the legislation that you call on the government to develop achieves certain things, and our brief offers you what those things should be. You can talk about what the key components would be without expecting yourselves to draft—I know that there had been some discussion within this committee about possibly drafting a bill, but it may be that you might not be in a position to draft this part of that bill. But you can indicate both what it needs to do and what process the government ought to follow to develop it.

Mr. John Rae: But it's also important that the committee, to what extent it thinks it can, look at items that may not necessarily be covered by the act or by legislation, which really require all-party agreement, things like how candidates' meetings are conducted, doing outreach recruitment to try and increase the representation of us on your staffs and those sorts of things. Those are things which may be beyond at least what the current Election Act looks after, but nevertheless they are also important issues that impact upon our opportunity to participate fully in the electoral process.

Mr. David Lepofsky: If I could just build on that, we recognize that there are certain things that the Election Act can't cover or likely won't cover and that public servants can't deal with. One of those may be all-candidates' debates. There may be room to regulate them by legislation, and we would encourage that that be considered, but if a decision is made that it can't for some reason, we have sitting at this committee the three political parties that take part in all of those all-candidates' debates and we have sitting before us the three political parties that each promised an accessible election action plan. Whether you're government or opposition, your parties could agree to a joint, all-party accord such as one that would agree that your candidates will only take part in all-candidates' debates if they are accessible.

That may not be legally enforceable, but it will have significant public impact. It means that a candidate from any of your parties, if they get a call to take part in an all-candidates' debate, need simply say to the host organ-

ization, "Are you offering us a location that's accessible?" And if the answer is no, then all the candidates should be on record as saying, "We won't go there. Get us another location and we'll be happy to do it." We'd like to call on all your parties to, if you feel you can't include that kind of thing in legislation, do it instead by way of an all-party agreement. And believe me, if you reach that agreement and make it public, we'll make sure voters hear about it.

The Chair (Mr. Greg Sorbara): Understood. Mr. Sterling.

Mr. Norman W. Sterling: I'm confused as to what the Ipsos Reid poll showed as primary concerns of the community in terms of the election process. What were the deficiencies and what is the primary focus of your concern with regard to providing more access? Because we have talked about the accessibility issue, the physical issue, with regard to schools, which are generally very accessible, and whether or not this committee should make a recommendation—a recommendation that I am in favour of, but other members of the committee, as you've heard, are not—that we demand the use of schools on election day and that, notwithstanding collective agreements, teachers would have a PD day. That would be dictated in legislation. I have no problem with that in terms of dealing with one day every four years that we do that. Other parties disagree with that.

Notwithstanding that, how important are these issues? Because we have been basically dealing with one issue, and that is the machines, which are very expensive, \$11,000 or \$12,000 apiece. I'm unclear as well as to how many machines you would require in any particular constituency, given the fact that one person located in one area might want to have a machine and somebody in another area might not.

1650

The other part of what we have been led to believe by the Chief Election Officer is that the only way to do this properly, in his view, is to rent these machines and hire technical support for each machine in each location. That's what we've been led to believe, and so your suggestion about buying these machines and holding them for a long period of time has been rejected by the Chief Election Officer.

Mr. David Lepofsky: There are three things in your question, and they're all really important. One is the machines, one is Ipsos Reid and one is poll locations. Why don't you start with poll locations and then I'll cover the other two?

Ms. Catherine Tardik: Okay. I'll deal a little with Ipsos Reid, because the details in the Elections Ontario accessibility report are kind of thin in relation to the specifics that Ipsos Reid identified. They indicated that 44% of electors with special needs had issues on election day and that 15% of those had problems casting their ballot. The only stats that they gave indicating accessibility barriers were in relation to physical barriers. They said that that was the majority of the 44%.

As an illustration of that, the returning officers are the ones who are responsible for picking those poll locations

and advance poll locations, and they made efforts—I'm not going to say they didn't—but they didn't adhere to a standard. There were no set rules or guidelines to help the returning officers to develop or determine what the best possible location was. So in many instances, ramps were built to facilitate accessibility, and if a ramp was put in, then the site was deemed accessible. There was no higher level of standards.

So speaking to what David was referring to earlier, it's important for there to be some sort of prescriptive description of what the accessibility standard is, and I'm sure the built environment accessibility standard is going to help that. But for the last election, what was deemed accessible was just not necessarily the case.

Mr. David Lepofsky: Let me just add that I'll provide the committee afterwards with the full text of the report and I'll mark the relevant passages. There was talk in it about navigating the polling station or difficulty with signage in front of the polling station.

By the way, because we're a community coalition, we've been involved with this for years. We get our healthy amount of anecdotal stories about this, which we can't offer as systematic evidence, but we can say that we hear enough of it to know that it's not just one day or one place or one person.

The other question that was raised about cost of the equipment—this is where it would be very worthwhile, as part of developing this legislation, for the government to put some public servants into action to research some options. I know that Elections Ontario has done some. They've contracted with one company. They've shown us one machine that was quite good—it needed a little tweaking, but it was quite good—and it's quite expensive. We're not necessarily sure that you need to spend that much money to achieve this. One thing we know about access technology is, the access technology from 20 years ago that used to cost \$50,000 is now available, if not for free, then for a couple of hundred bucks. So it may be that there will be some upfront costs at the start, but the cost of this technology will evolve.

We've got a bunch of infrastructure money, as I recall, from the budget being offered for new technology. I can't think of a better project to encourage people to bid on than to come up with the highest-yield, lowest-cost voting technology, as one possibility. But you shouldn't be locked into the price tag that Elections Ontario has given for the one machine they've shown us as being the price that has got to be paid from now into eternity for this kind of equipment.

Mr. John Rae: If I might just add, we're talking here about machines. That seems to be the focus of our conversation. Let me be clear that what we're after is outcome—outcome; that is, that we can independently verify how we voted. There may be other ways of doing that. I am told, but I have not seen it and I haven't found out about it, but maybe staff could research it, that there exists some kind of wand that you could wave over it; after you put your X in the hole, you could wave it over and be able to verify it. Now, I haven't seen it and I don't

really have information about it, but somebody told me this exists.

What we always suggested when we started work with Elections Canada was for them to bring in a variety of machines, get a focus group or two together, develop a bunch of questions, put the machines through their paces and determine which machine is the best. I've recently been told that the city of Toronto has a new and upgraded version of the AutoMARK. I had seen the previous version; it was pretty good. I think the Dominion systems version that we saw, which was used in the by-election, was superior because it provided options for persons with disabilities, which is good. I'm told the AutoMARK may do that too, but I haven't seen it.

So my point is, especially when you consider the Vote America act and research that's going on in the US, what's available now is not likely what's going to be available even five years from now. So the rental option may very well be a better way to go, because the technology is going to change. I think we can predict that. So, again, we aren't married to one particular solution. What we're looking for is outcome.

The Chair (Mr. Greg Sorbara): David, have you answered all the questions that Mr. Sterling raised?

Mr. David Lepofsky: I believe so.

The Chair (Mr. Greg Sorbara): Norm? Any further questions?

Mr. Norman W. Sterling: These other issues, we haven't really dealt with. As Mr. Kormos said, we were not aware of a committee dealing with these other issues that you're engaging us in today. I would like to deal with them as well in our report.

Mr. David Lepofsky: Just so you'll know where that came from, you'll see attached to our brief a letter from last December sent to the assistant deputy minister of community and social services responsible for the accessibility directorate. That letter is an effort to summarize the substance of the meeting that we had with them as of then. We're not aware of any major developments since then, other than being told that they are awaiting direction from here. But the substance of it is there, and we understood from this group—it was an interministerial working group that had gotten together. They had done some preliminary work about gathering ideas and they, in a very open and friendly and collegial way, asked us to talk about some of the basic issues that folks with disabilities face in elections. So it was a very early-on type of discussion.

Mr. John Rae: Certainly, in that preliminary meeting we indicated that we were quite willing to come back and to dialogue with them on specifics as their work progresses. We still are. We've not been invited back yet, but we remain quite willing and anxious to come back.

The Chair (Mr. Greg Sorbara): I'm going to turn to other committee members now for questions. David, do you have any questions?

Mr. David Zimmer: I have one question, just to sort of help me get a human perspective on this. Can the alliance give me any sense of how many or an estimate of

how many persons with disabilities are not accessing the democratic process because of access issues? I know that's a hard question, but have you got some sense of that?

Mr. David Lepofsky: We don't have any statistics, but what we can tell you is this: Over 1.5 million Ontarians have a disability. They are disproportionately older folks; disability comes with age. So they are not evenly distributed because of age.

Among the most common of them that were raised, some of the specific barriers we're addressing, although not all of them, are vision loss—I think it's that half of people with serious vision loss are either over 50 or over 65—hearing loss and mobility limitations. They don't all carry a label. It might be somebody who doesn't use a walker or a wheelchair but who can't walk long distances, and if from the parking spot near the polling station to get into the building and get to the polling booth is too long a walk, they may just not go, and we won't know about it unless somebody mentions that on the phone or sends us an e-mail or whatever.

We have actually tried to minimize some of the impact by encouraging voters with disabilities to vote at advance polls, simply because if there's a problem with access there, they at least have another day when they can go back and try again. We think folks with disabilities should be able to vote the same day as everybody else, election day, but we've tried to do that. Our effort in that regard may, in fact, reduce some of the problems we end up hearing about just inadvertently. We can't give you any sort of solid statistics.

Mr. John Rae: We also have to include people whose disability is invisible, people who have literacy issues and people who need plain-language versions of documents which may or may not be available. Certainly, the political discourse can often be at a fairly high level—sometimes it's at a pretty low level, too, but at least the verbiage is at a level that may pose comprehension problems to certain members of the community, whether those people identify as having a disability or not.

Mr. David Lepofsky: The other thing is, Catherine just reminded me that voter turnout in the last provincial election was 52%. What we don't know, of course, is how many of those who didn't turn out didn't turn out because of barriers and so on. It wouldn't surprise us,

obviously, if that had an impact. To me, enough data is in the Ipsos Reid information collected, that 44% of voters with special needs whom they surveyed—they are independent of us and government and so on—reported problems taking part in the voting process. If 44% of people without disabilities had trouble participating in the voting process, we'd either call ourselves Florida or this discussion would have been over long ago and legislation would have been passed.

Mr. David Zimmer: Thank you.

The Chair (Mr. Greg Sorbara): Any other questions? Okay, there being none, David, do you want a final comment? Then we'll complete the open session of this committee's hearings.

Mr. David Lepofsky: We thank you for the opportunity to appear. We appreciate that all three parties want to approach this in a—

Interjection.

Mr. David Lepofsky: Exactly. We appreciate that all three political parties are approaching this discussion in a non-partisan way. We all want to get to the same place, and we appreciate that your election commitments point us to the right direction.

Your select committee is the one place where change can start. The more detail you put in your report, the more you focus on what the government should put in its legislation if you don't feel comfortable writing the details of it yourself, the more likely is the chance that we can get this solved.

Please accept the deadline. The deadline should be that there are no inaccessible ballots, no inaccessible polling stations and no inaccessible all-candidates' debates in 2011. There's no reason between now and then that we couldn't fix that problem, and the same for the municipal elections between now and then.

Thank you very much for the opportunity. We'll e-mail the relevant parts of the access report from Elections Ontario to the clerk for your assistance.

The Chair (Mr. Greg Sorbara): Thank you very much, David, to you, Catherine, and to you, John. Good to see you again.

This committee is now going to recess for four minutes and 40 seconds while we prepare to complete the day's proceedings in closed session.

The committee continued in closed session at 1701.

CONTENTS

Tuesday 28 April 2009

Accessibility for Ontarians with Disabilities Act Alliance.....	EL-81
--	--------------

Mr. David Lepovsky
Mr. John Rae
Ms. Catherine Tardik

SELECT COMMITTEE ON ELECTIONS

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EL-10

EL-10

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Première session, 39^e législature

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Thursday 7 May 2009

Journal des débats (Hansard)

Jeudi 7 mai 2009

Select Committee on Elections

Review of election legislation

Comité spécial des élections

Révision de la législation électorale

Chair: Greg Sorbara
Clerk: Trevor Day

Président : Greg Sorbara
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON
ELECTIONS

Thursday 7 May 2009

COMITÉ SPÉCIAL DES
ÉLECTIONS

Jeudi 7 mai 2009

The committee met at 0907 in committee room 1.

REVIEW OF ELECTION LEGISLATION

The Acting Chair (Mr. Norman W. Sterling): This is the Select Committee on Elections. My name is Norm Sterling, and I'm sitting in for the Chair, Mr. Sorbara, who will be arriving shortly.

OFFICE OF THE CHIEF ELECTORAL
OFFICER OF ONTARIO

The Acting Chair (Mr. Norman W. Sterling): We have a witness today, Mr. Greg Essensa, who we asked to come forward and speak to us with regard to the advertising issues during an election. We appreciate very much that you have come on such short notice, Mr. Essensa. I believe that you have opening remarks that you'd like to make, and we'll follow that with questions after.

Mr. Greg Essensa: Thank you very much, Mr. Chair. I would like to begin by thanking the committee for inviting me to appear before you today.

When I appeared before you in December, I recommended that the advertising provisions of the Election Finances Act be reviewed. The law was drafted over 30 years ago, and the way in which campaigns are run has significantly changed. In February, my written submission recommended that a task force be created to review the rules governing political advertising.

Today, I would like to focus on one aspect of political advertising, specifically third party advertising. I will address three topics in my presentation: first, the third party advertising requirements in the Election Finances Act; second, questions the select committee may wish to consider with respect to the regulation of third party advertising; and third, the role of the Chief Electoral Officer in administering the election finances process. I will be happy to answer any questions that you have at the end of my presentation.

To begin with, it is important to remember that apart from parties and candidates, there are individuals and organizations who participate in the democratic process. These third parties participate in elections by commenting on a candidate or party's position, adding issues into the political debate in an election, and attempting to influence which parties or candidates are elected.

Third parties participate in the democratic process by sponsoring advertising, the same way as candidates and parties. They advertise before and during campaigns to deliver a message about a particular issue or about the merits of a specific party or candidate. Third party advertising has been present in the democratic process in Canada for quite some time. As early as the 1970s, on the recommendation of a royal commission, Parliament amended the Canada Elections Act to include controls over third party advertisers. Over time, various constitutional challenges have been brought to such laws. Some challenges have succeeded and some have failed. I'm not going to catalogue these cases for you today. However, the lesson that we can draw from this history is that the regulation of third party advertising has been legally and politically contentious.

I would like to turn my attention to the first topic: the third party advertising requirements in the Election Finances Act. As members of the committee will remember, there were various changes made to Ontario's election laws in June before the October 2007 general election. Those changes included new third party registration and reporting requirements. At the time these changes were made, there were only three Canadian jurisdictions that had such requirements: They were in place federally, in Quebec and in British Columbia. It should not be forgotten, however, that the Election Finances Act already contained some restrictions on third party advertising dating back to 1998. The law already imposed blackouts on third party political advertising on polling day and the day before polling day, and deemed that \$100 or more spent on advertising by a person, corporation or trade union which promoted a party or candidate was to be treated as a contribution, provided it was done with the knowledge and consent of that party or candidate. In essence, the law required for several years that third party advertising be treated as a contribution if it could be shown to be controlled by a political party or candidate. The cost of such advertising was also subject to contribution limits and treated as a campaign expense of the party or candidate.

The legislation passed in June 2007 contained the following significant requirements: Third party advertisers spending over \$500 on election advertising had to register with the Chief Electoral Officer; all registered third party advertisers had to report on their advertising spending six months after the election; and third party advertisers had to report all contributions they received to

support their advertising during the campaign period and in the two months before the election was called. These provisions are similar to federal third party provisions, with the exception that the amendments did not impose any spending limits.

In support of these new requirements, my predecessor as Chief Electoral Officer issued new guidelines, which attempted to clarify for third parties, candidates and political parties alike how these new rules worked. These guidelines attempted to address, for instance, how to differentiate between issue-based advertising that would not be subject to these requirements and advertising promoting or opposing a particular party or candidate that would be subject to these requirements.

These guidelines were published and distributed in advance of the 2007 general election and were supported by an information campaign. In total, 20 entities registered and reported on their advertising activities in the 2007 general election. These reports are posted on the Elections Ontario website, as is required by law.

I think it can be said, in fairness to all, that implementing a new system on the eve of a general election posed significant challenges for Elections Ontario and for those involved in the electoral process. I will have more to say about how, on a go-forward basis, I intend to address these challenges in the last part of my presentation.

In light of Ontario's recent experience with third party advertising requirements, I would like to address my second topic, and that is, questions that the select committee may wish to consider with respect to the regulation of third party advertising. I began my presentation today by noting that it is time for a comprehensive review of the political finance rules in Ontario. This review is certainly timely with respect to third party advertising requirements. Since changes were made to the Election Finances Act in 2007, two more provinces, New Brunswick and Alberta, have either adopted or proposed to adopt controls over third party advertisers, and BC has substantially amended its third party requirements.

Now that the legislation is over and the reports have been submitted, and taking into account the innovations being introduced in other jurisdictions, there are a number of areas the Select Committee on Elections may wish to examine. Some of these include:

First, should Ontario adopt third party spending limits? Currently, Ontario has no spending limits. In comparison, there are third party election advertising limits in other jurisdictions. Federally, a third party is limited to spending \$183,300 in total and no more than \$3,666 in any one electoral district. In British Columbia, a third party is limited to spending \$150,000 in total and no more than \$3,000 in any one electoral district. In New Brunswick, a third party is limited to spending no more than 1.3% of the maximum amount a political party can spend if it runs a candidate in every electoral district. And in Quebec, a third party is limited to spending \$300 on issue advertising, and third parties may not advertise to directly promote a party or candidate.

The second area of consideration is, should Ontario adopt third party contribution limits? Currently, no jurisdiction has contribution limits, but Alberta has just introduced a bill, Bill 205, that would limit a contributor to giving a third party for its advertising no more than \$30,000 in an election year and \$15,000 in a non-election year.

Mr. Chair.

The Chair (Mr. Greg Sorbara): Let me apologize to my colleagues and to the members of the committee and to the CEO for my lateness. I just want to say for the record that it shouldn't take an hour and 40 minutes to come from Richmond Hill to Queen's Park.

Interjection.

The Chair (Mr. Greg Sorbara): That's not the issue.

Mr. Dave Levac: So we're talking to the late, great Greg Sorbara.

The Chair (Mr. Greg Sorbara): I'll just ignore that. Go ahead. Again, my apologies.

Mr. Greg Essensa: No problem, Mr. Chair.

To continue, I was on my second point, regarding issues that the select committee may wish to take into consideration respecting third parties.

Should Ontario try to limit third party advertising spending to the amounts it raises prior to and during an election? Currently, a registered third party need only report on the contributions it receives to support its advertising in the two months before an election is called. This allows third parties to build advertising war chests but not have to report on the source of those contributions received at an earlier time.

In 2006, there was a bill before Parliament that proposed to limit third party advertising spending to the amounts donated and reported in the six months before an election. While Bill C-79 died on the order paper, this is a requirement that legislators in Ontario may wish to consider.

The fourth public policy area for consideration is, should Ontario adopt stricter registration and anti-collusion provisions? Under the Election Finances Act, there is no specific provision that prohibits a third party from co-operating or coordinating its advertising with either a political party or one of its candidates, provided that the party/candidate is not actually controlling the third party's advertising. Such advertising is not necessarily prohibited so long as the cost of the advertising does not exceed the contribution limits and is reported by the party/candidate as an expense. Similarly, with the absence of spending limits in Ontario, there are also no explicit prohibitions on third parties coordinating their activities with one another.

In contrast, more stringent requirements are in place federally, in British Columbia, in New Brunswick, in Quebec, and are being proposed in Alberta. It is, or will be, an offence in these jurisdictions to collude for the purposes of circumventing spending limits for political parties, candidates and third parties.

These are significant questions, and there may be others. I do not have the answers to these questions or

particular policy recommendations to make to you. As Chief Electoral Officer, that is not my place. But I do see that these are important issues that other jurisdictions have turned their minds to, and recommend that Ontario do the same.

I had such examples in mind when I recommended in December and in February that a task force be created to examine the rules of political financing in Ontario.

Finally, I have not just come here today to suggest things that this committee and the Legislative Assembly can do. As I mentioned earlier, I have a few thoughts with respect to the role of the Chief Electoral Officer in administering the election finance process. While I am not new to the world of elections, I am new to the Office of the Chief Electoral Officer. It is incumbent on me to ensure that I administer Ontario's elections finance laws in a fair and impartial manner.

I also believe that a review and update of Ontario's election finance laws is warranted. As I have mentioned today, there are a number of questions that the select committee may wish to address with respect to third party advertising.

I have also specifically recommended in my earlier submissions that my office be entrusted with the power to institute administrative penalties over those governed by these rules. I will also be diligent in reporting apparent contraventions of the law to the Attorney General of Ontario.

In order to enhance the integrity of the electoral process, my office must do more to ensure the rules that it applies in the election finance process are clearly articulated to the parties and candidates who we work with. The current guidelines, forms and manuals have evolved incrementally since they were first created by the Commission on Election Finances decades ago.

0920

In the political advisory committee that I host, which is composed of representatives of all Ontario's political parties, we have recently committed to review and adopt best regulatory practices from other jurisdictions; consult the parties, associations and candidates to see how we can better explain the requirements of the process; and deliver updated materials/tools in time for the 2011 general election.

As legislative change occurs—as it always will—my office must and will be ready to implement those changes and help the participants in the process better understand any new rules and obligations. To fulfill our legislative mandate, we must administer the election finance rules in a principled and impartial manner.

I look forward to meeting these challenges in the years to come and I welcome any questions you may have today.

The Chair (Mr. Greg Sorbara): Let me thank Greg Essensa for his submission. I think, probably, we'll begin the questions with Mr. Sterling.

Mr. Norman W. Sterling: Thank you very much, and I might add, Mr. Essensa, that on page 5 of your remarks, just for Hansard purposes, your notes said, "Now that the

last election is over." I think you inserted another word there. I forget what it was but just so—

Interjection: "Legislation."

Mr. Greg Essensa: My apologies. It should be, "Now that the last election is over."

Mr. Norman W. Sterling: Just for Hansard purposes, because people will, no doubt, be reading your remarks on this.

You note in your remarks that there were 20 third party advertisers who registered with you and are noted on your website. Do they report to you the quantum of their advertising, the cost of their advertising, the cost of their administration and that kind of thing?

Mr. Greg Essensa: They report to me the cost of the advertising they incurred during the most recent election that they had registered for.

Mr. Norman W. Sterling: Do you know what the total was in the last election?

Mr. Greg Essensa: I have individual totals for the individual 20 entities. I'm not sure that we have a cumulative total, but we could certainly get that for you, Mr. Sterling.

Mr. Norman W. Sterling: So what was the largest advertiser? What were the expenditures?

Mr. Greg Essensa: The largest advertiser was the Working Families Coalition and their total expenditure was just over \$1 million.

Mr. Norman W. Sterling: Is that during the election period or before or is that both?

Mr. Greg Essensa: Solely during the election period.

Mr. Norman W. Sterling: So any advertising that they undertook prior to that time would be in addition to the \$1 million?

Mr. Greg Essensa: That is correct, and as my remarks indicated, that is one of the considerations, from a policy perspective, that I have suggested that this committee undertake in its consideration or deliberations.

Mr. Norman W. Sterling: Were there advertisements before by third party advertisers in the last election, or can you recall? I know you weren't in the position at that time.

Mr. Greg Essensa: I would need to confer with my general counsel. I was not in the position, but if you give me a second I can certainly—

Mr. Norman W. Sterling: Okay, fine. I don't know if you can recall that or not.

Mr. Greg Essensa: Mr. Sterling, if I could just get clarification. The question was: Was there advertising prior to the last general election by third party advertisers that was not covered by what they submitted in their review?

Mr. Norman W. Sterling: Yes.

Mr. Greg Essensa: We believe so, but as the legislation was only introduced in June 2007, I'm not sure that we have the actual factual documentation on that.

Mr. Norman W. Sterling: Okay. So if you'd supply us with that overall.

In terms of party advertising, what is their overall limit, in rough numbers? What does each political party get to spend?

Mr. Jonathan Batty: Mr. Sterling, it depends on the number of candidates that a party runs. So its spending provincially is linked to the number of candidates it has in each electoral district. Overall, it would be in the neighbourhood, in the last general election, of probably between \$5 million and \$6 million.

Mr. Norman W. Sterling: So each of the three parties, or perhaps each—there were four; I don't know how many parties had candidates in each and every riding. I don't know whether the Green Party had candidates in every riding, but I assume that the three parties that are represented in the Legislature now all would have had \$5 million to \$6 million that they could have spent.

Mr. Jonathan Batty: That's correct, and the Green Party, if they didn't run a full slate of candidates, were only one or two away.

Mr. Norman W. Sterling: Okay. And so it would be proportionally a little bit lower, perhaps, for them. Do you know how much the parties actually did spend during the last election in 2007?

Mr. Jonathan Batty: Yes, that's reported in their statements.

Mr. Norman W. Sterling: And do you know what that number is?

Mr. Jonathan Batty: Off the top of my head, no. But we could supply that information to you.

The Chair (Mr. Greg Sorbara): Just as a matter of information, those returns with total spending from each party are a matter of public record, and are now, I think, available on Elections Ontario's website.

Mr. Greg Essensa: That is correct.

The Chair (Mr. Greg Sorbara): That's readily available to all.

Mr. Greg Essensa: That information is all readily available—

Mr. Norman W. Sterling: I was just trying to find out whether or not parties were in fact spending the \$5 million to \$6 million or were pressing the upper limits—for comparison purposes, as to how much is being spent by parties. Is the \$5 million to \$6 million during the election period, or does it cover pre-election spending?

Mr. Jonathan Batty: That would be campaign spending.

The Chair (Mr. Greg Sorbara): That is, during the election period, but not applying to any of the period before the writ is issued.

Mr. Jonathan Batty: That's correct.

The Chair (Mr. Greg Sorbara): Although I haven't reviewed those returns lately—and sorry, Norm, just as a supplementary—my impression is that each of the three parties represented in the House today spent very close to the limit in each case.

Mr. Greg Essensa: We can certainly get the exact information for you, Mr. Chair and Mr. Sterling, and we can provide that to you within the next day or so, for sure.

Mr. Norman W. Sterling: Is there any requirement for political parties to report spending prior to the writ period?

Mr. Jonathan Batty: Yes. Political parties file annual financial statements with Elections Ontario, which detail the contributions that they've received and what they've spent monies on.

Mr. Norman W. Sterling: So the writ period, the election—it was October 10 or about that time.

The Chair (Mr. Greg Sorbara): The 11th.

Mr. Norman W. Sterling: The 11th. The writ period was approximately a month prior to that time, so you have records. Do you publish the number on advertising prior to the election period, let's say what happened the 60 days before, in the July and August going into the writ period?

Mr. Jonathan Batty: All financial statements are posted on the Elections Ontario website in terms of reporting requirements. For example, from the 2007 general election, the campaign returns were due April 10, 2008, and the annual returns for the calendar year in which the general election was held were filed on May 31, 2008. So that complete set of information, as the Chair has indicated, is publicly available and is posted on the Elections Ontario website.

Mr. Norman W. Sterling: That's not where I'm going. What I'm trying to do is to find out where, in fact, there might be soft spots in our existing regulations and whether or not we have information now to go forward in terms of perhaps considering new rules surrounding advertising. We now have a fixed-date election, effectively, so that a very strong party with lots of money might advertise, the day before the writ is dropped, extensively in terms of what has happened. It doesn't seem to me, from what you're telling me, that we have any way of tracking what was spent in the month prior to the writ or two months prior to the writ; we just have a holistic number in terms of returns by the party as to what they spent in that fiscal year with regard to advertising or any other expenditure.

As the expenditures are published, would you be able to delineate how much was on advertising, how much was on party organization, and how much was on this or whatever?

0930

Mr. Jonathan Batty: Definitely—

Mr. Norman W. Sterling: You can do that?

Mr. Jonathan Batty: Yes, the schedules are broken down in quite some detail. If the members speak, for instance, to their party's chief financial officer, they're very familiar with the deep level of detail to which they need to go in reporting. For instance, advertising expenses are specifically broken down in the annual report, but as you indicate, Mr. Sterling, the schedule doesn't break down at what particular date in the calendar year that particular advertising money was spent.

Mr. Norman W. Sterling: Okay, spent means spent. Do they file on a calendar-year basis?

Mr. Jonathan Batty: That's correct.

Mr. Norman W. Sterling: So it would be anywhere from January 1 to September 11 in the last election, for instance. I forget when the writ was dropped, but—

The Chair (Mr. Greg Sorbara): Just as a matter of clarification, I don't think that's right, Norm. I invite our witnesses to correct me if I'm wrong, but my understanding is that each party is required to submit an annual report of revenues and expenditures for a calendar year, as is each constituency association. Over and above that, the writ period represents a separate reporting period, so for example, in 2007, a separate report—separate from the annual report—would be filed to Elections Ontario for the period from September 10, when the writ was dropped, to the date of the election. Those are two separate reports, each of which provides details on revenues and expenditures. Here I want you to correct me if I'm wrong, Mr. Essensa: There wouldn't be a separate report for January 1, 2007, to September 9, 2007, which is, for our political purposes, the pre-writ period.

Mr. Greg Essensa: That would be the annual return, Mr. Sorbara, but that is correct.

The Chair (Mr. Greg Sorbara): That annual return would cover the period January 1, 2007, to December 31, 2007, and all advertising expenditures by a political party would be included in that, except for those campaign expenditures that were reported separately in a separate reporting period for the writ period.

Mr. Greg Essensa: That is correct.

Mr. Norman W. Sterling: Okay, I'm sorry. I guess I assumed that all of the advertising expenses would be before the election, not after the election. But it is a point that it's an annual number.

When reading some of the research and some of the legislation that other jurisdictions have, there seem to be three defined periods of time that are of importance to us. I guess the most critical is during the election period when the writ is dropped, the 30 days, 31 days or whatever period of time the Premier of the day decides to have a writ drop. What is the maximum time now? It doesn't matter anyway.

Mr. Dave Levac: It's 28.

Mr. Norman W. Sterling: No, I think it's longer than that. It used to be as much as 45 days. Notwithstanding that, it doesn't seem to matter, save and except that it may be to the advantage of the Premier of the day to drop the writ as late as possible, if in fact their war chests are bigger than the other war chests, because they can advertise during that pre-writ period to their heart's delight and then just stay within their spending limits during the writ period.

In terms of what I have read, jurisdictions look at the writ period, and then they look at the 60 days before the writ period. That seems to be the time frame people are talking about in other jurisdictions. I guess my point is, we don't seem to have any hard numbers for what third parties have been doing during that 60-day pre-writ period.

Mr. Greg Essensa: That is correct, Mr. Sterling. Under the current election laws, we could not articulate exactly that activity.

Mr. Norman W. Sterling: And it makes a lot more difference now that we have set the date, because people

know when in fact things are happening, so for anybody who is trying to avoid the reporting, the spending limits etc., outside the third parties, all they have to do is, as you say, build up the war chest. Prior to the election period, I guess they report to you that they've got \$100,000 in the kitty, and you don't know where that's come from.

Mr. Greg Essensa: Again, Mr. Sterling, I would hearken back to my recommendation I made back in December and in my written submission in February. That is one of the primary reasons that I'm recommending to this committee that it consider establishing or recommending establishing a task force to review the election finances laws, including third party advertising, in respect to what's happening across the country and in respect to the various issues that you've just identified, to come back with some significant recommendations for the Legislature to consider in amending its election finance laws.

Mr. Norman W. Sterling: I don't know if you had read anything on this. I was told that in the recent Australian federal election—I think it was a federal election—third party spending was quite exorbitant. In fact, it was talked about as being two or three times what any political party had spent during that period of time. Do you have any knowledge of that at all?

Mr. Greg Essensa: I have no first-hand knowledge of that today, but I can certainly undertake some of my staff to research that information and provide information back to this committee. I would be happy to do so.

Mr. Norman W. Sterling: The reason that I am concerned about third party advertising is, when I listen to elections that are held south of our border in the United States, I'm appalled at how much is being spent on elections by all candidates and how much time candidates or incumbent, elected people are spending on raising money. I'm told that, for instance, a sitting senator of the Senate of the United States spends an hour a day raising funds personally in order to undertake his or her next election. I'm concerned about us getting into situations where there's no fairness in what happens in terms of advertising as we go forward. So that's my concern with regard to that.

I'll leave it at that right now, if other people have questions.

The Chair (Mr. Greg Sorbara): Just before I go to Mr. Kormos, are there any supplementary questions relating directly to what Mr. Sterling was asking? If not, I'll just move to Mr. Kormos.

Mr. Peter Kormos: Thank you. Quebec's third party spending is limited to \$300 per riding?

Mr. Greg Essensa: It's \$300 overall, in total.

Mr. Peter Kormos: So they've banned.

Mr. Greg Essensa: I'm sorry?

Mr. Peter Kormos: They've banned third party advertising.

Mr. Greg Essensa: I would say they've restricted it substantively.

Mr. Peter Kormos: Why would they have put the \$300 limit [inaudible] constitutional issue about freedom of expression etc.?

Mr. Greg Essensa: Not that I'm aware of, Mr. Kormos. I'm not familiar enough with that legislation to be able to comment as to the rationale behind that.

Mr. Peter Kormos: They're being playful, at the very least.

Mr. Greg Essensa: We have an excellent relationship with Elections Quebec, and I can certainly endeavour to get some information for you on that.

Mr. Peter Kormos: I'd appreciate that.

Mr. Greg Essensa: By all means.

Interjection.

Mr. Greg Essensa: I've just been informed that there was also a recent court case on that specific issue, so we will endeavour to get that information to you as well.

Mr. Peter Kormos: Challenging the limit?

Mr. Greg Essensa: It was a prosecution for someone who filed—

Mr. Peter Kormos: I see, okay. Interesting—because really, issue-based advertising can be so partisan without promoting or opposing a particular party or candidate. I remember in 1987, Mel Swart's last campaign, New Democrats campaigning on public auto insurance, and the IBC had their "If pigs could fly" campaign in response. They didn't have to say NDP. It was clearly identified with the New Democrats; they were the only people advocating it. It was a very clever advertising campaign and worked reasonably well, but it clearly was telling people, "Don't vote NDP." How do you create a boundary for issue-based advertising that prevents it from being pushed to the point where it's coded partisan advertising?

0940

Mr. Greg Essensa: I honestly think that is the challenge with the current electoral law. It does not provide a clear enough definition to provide direction to both third parties, parties, and the administrators that oversee election finances law. Again, I think that's one of the challenges that this committee or a suggested task force would be tasked with undertaking to review and look at.

Mr. Norman W. Sterling: Can I just add—

Mr. Peter Kormos: Sure, of course you can.

Mr. Norman W. Sterling: But I understand that federally, under the example Mr. Kormos brought forward, the insurance bureau would have been limited to \$183,000 total.

Mr. Greg Essensa: That is correct, Mr. Sterling.

Mr. Norman W. Sterling: So it didn't matter whether they were targeting a party, a person, a leader or an issue. There would be limits—

Mr. Greg Essensa: That is correct. You are correct.

Mr. Peter Kormos: What's the rationale for allowing third party advertising?

Mr. Greg Essensa: I believe there have been several constitutional challenges towards it, and I believe that there is—again, it's ultimately up to the Ontario Legislature to determine whether they want to, in fact, provide

a framework or guidelines around third party advertising. For many years, there were not third party advertising rules, but there are entities, bodies and individuals who do want to comment on the political process. Putting together a regulatory framework that provides a guideline and reporting requirements, so that there's transparency in that process, I think fulfills some of the underlying democratic principles in elections. It is a valid thing to put the Legislature's mind towards, to ensuring that there is a level playing field, as Mr. Sterling alluded to, through third party advertising; that it does not create an unlevel playing field to favour any one particular entity, individual or political party.

Mr. Peter Kormos: Just think, Chair: Let's talk about Working Families—I believe it was the Working Families Coalition. Even if there were spending limits, they could have simply had each one of their coalition members embark, effectively, on an identical campaign, but do it under the name of—it was primarily building trades that were involved in that. You have the plumbers and pipefitters; you could have the sheet metal workers, etc., all doing that one-of and circumventing spending caps.

Mr. Greg Essensa: But again, that's why I'm suggesting in my remarks to you that this committee and/or task force should put its mind towards spending or anti-collusion provisions in the Legislature that would prevent that from happening.

Mr. Peter Kormos: But how would you, if you had all of the membership of the OFL—which is just about every trade union, including nurses and teachers I believe now, but for the CAW. OFL is a corporate entity. It would have a spending limit, but each one of the separate unions that are members of the OFL—surely you couldn't accuse them of collusion if they all happened to be endorsing the same political party? We New Democrats can only hope.

Mr. Greg Essensa: Again, these are issues that, from a public policy perspective, are not in the realm of the Chief Electoral Officer and for me to comment on. They are very valid issues which I've brought forward to the committee for consideration. Again, I would strongly recommend that if the committee put its mind towards this establishing of a task force of experts and individuals to examine this and provide recommendations back to the Legislature, some of the public policy issues that I brought forward in my presentation today are those very issues that you're addressing here.

Mr. Peter Kormos: I'm going to ask you because you'd be the person called upon to enforce these things.

Mr. Greg Essensa: Correct, yes.

Mr. Peter Kormos: So your comments in that regard are very valid.

Mr. Greg Essensa: My comments are very valid as I'm looking for very clear, defined guidelines and laws to enforce those various issues. As I articulated in my submission to you today, there are other jurisdictions in the country who have more stringent guidelines and regulations in place. Given the electoral landscape, it's an

appropriate time; based on the fact that we just introduced a law in 2007 and we now have some hard data coming out of the 2007 general election, and the fact that the select committee is ongoing to review the electoral laws, this is the appropriate time to examine that, to re-examine those election laws.

Mr. Peter Kormos: I just wonder if Mr. Johnston could get us some of the material that Mr. Essensa has referred to in terms of the right to engage in third party advertising.

The Chair (Mr. Greg Sorbara): Is it not the case that the Supreme Court of Canada has already adjudicated on the issue of freedom of speech, that third party advertising must be allowed in the electoral process in Canada? I think that's been adjudicated and readjudicated. At the same time, whether in a province or the federal jurisdiction, or, for that matter, a municipal jurisdiction, there is the right to establish rules and regulations and procedures and disclosure requirements to frame third party advertising. But the issue there has already been decided by the courts.

Mr. Peter Kormos: And like you, I've only read the head note. That's why I wonder if Mr. Johnston could—

The Chair (Mr. Greg Sorbara): No, I've actually read the case.

Mr. Peter Kormos: Well, then, you'd be able to be more specific.

The Chair (Mr. Greg Sorbara): It was too long ago. I can't give you the specifics, but I'm sure that we could delve into that and get an update as to what the law in Canada is as it applies to third party advertising and how that fits within the Constitution and, at the same time, the regulatory environment.

Mr. Peter Kormos: Which is why I find the Quebec \$300 province-wide cap interesting.

Mr. Greg Essensa: To Mr. Johnston, that is the Harper v. Canada Supreme Court decision that Mr. Sorbara's referring to.

The Chair (Mr. Greg Sorbara): He's read it too.

Mr. Peter Kormos: Of course he has. He remembers it.

Mr. Norman W. Sterling: But here's the thing. The cases that I have read with regard to it that came before the Supreme Court of Canada—because I was interested in them when we altered the law prior to the 2007 election. I made the comment in the Legislature at that time that we were meeting one side of the test which was put to the federal government, in terms of bringing in these spending limitations. That was, if a group wanted to participate in the election, it was so onerous for a third party to get involved as a candidate in the election process that they dramatically reduced their requirements for a party to form and a party to participate. They dropped their—I forget. It was from 50 candidates or something down to two, and you only had to have 1,000 people as opposed to 50,000 or 40,000 in order to formulate a party.

Now, we did that in 2007. We took the one side, in terms of saying that third parties should be allowed to

form much easier in Ontario, and we dropped it now—I think in Ontario it used to be you had to run people in 50 ridings in order to have a registered political party and get the financial benefits of that in terms of your contributors. And you only had 1,000 members, rather than 10,000 members—citizens to become members of your party. So we did the one part, but we didn't do the other part in terms of putting any limitations on spending.

I guess it's noteworthy to comment that in the Canadian legislation, for instance, there's no ban against anybody writing a letter to the paper or an editorial or a speech. There are a lot of exemptions in terms of what—it still allows people to go out and say what they think with regard to a candidate or a political party or an idea or an issue or whatever it is.

I'm interested in knowing about the \$300 Quebec issue as opposed to \$183,000. I only think that if you did have anti-collusion parts to your legislation, you wouldn't face the problems that Mr. Kormos has pointed out, that local such-and-such would have to spend \$183,000, and the other one and the other one, because as soon as you had any kinds of powers in that regard, I think that unions, corporations or associations would be very, very reticent to sort of skate around these things once there are some laws in place.

0950

I think you would always have to keep a watch on it, but I suspect that people would play by the rules. I haven't heard, at the federal level, of anybody trying to run around the rules by creating corporations and that kind of thing.

The Chair (Mr. Greg Sorbara): If you could just—we're into Peter Kormos's time. I have a question for him, but have you finished those remarks?

Mr. Norman W. Sterling: Yes.

The Chair (Mr. Greg Sorbara): To probe the issue a little bit, I'm wondering, Peter, if you're of the view that if, for example, the OFL decided to register and participate as a third party advocate in the election, then that should prohibit the steelworkers or the Ontario Nurses' Association or the CAW from—

Mr. Peter Kormos: I would argue the contrary. They're separate corporate entities, and that's the problem with efforts at preventing collusion.

The Chair (Mr. Greg Sorbara): The difficulty there is, of course, it's not very hard to create a separate corporate entity.

Mr. Peter Kormos: You don't even have to do it artificially. If the IBC advertises, should that preclude each and every insurance company from advertising?

The Chair (Mr. Greg Sorbara): Yes, very difficult issues. Although these problems are going to fall on the shoulders of Greg Essensa, I think one of the larger issues, and we've had some discussions about that here, is what constitutes advertising? Right now, we're seeing traditional advertising decimate traditional media outlets, and yet, on the Internet, there is ever-greater penetration of advertisers who are trying to sell you one thing or another. Anyway, that's an aside.

Mr. Peter Kormos: No, it's not an aside, because let's go one further: manipulation of vehicles like Facebook, which can be readily manipulated. You see the feeble attempts at a couple of the websites, DemocraticSPACE and so on, that do election predicting, and you see the very feeble, amateurish efforts to skew things. That's at a very primitive level. But vehicles like Facebook, this stupid, stupid, stupid tweeter or Twitter, whatever the hell it is—it's an embarrassment; it's a bloody embarrassment. I only looked at it once, but it's the stupidest thing I've ever seen, and people who participate in Twitter are not the brightest people in the world.

The Chair (Mr. Greg Sorbara): Are you going to make any exceptions to that? Are you going to give the mayor of Toronto some grace or—

Mr. Peter Kormos: No—which is why I don't understand why, again, the Quebec solution seems so attractive. It'll become increasingly difficult to police when you've got cyberspace as a medium, where the messages can originate from outside the country, outside the province, outside the jurisdiction. Yes, you're right: It's becoming increasingly difficult to police. So then why create a system that is doomed to fail, in terms of regulating that type of participation?

Mr. Norman W. Sterling: Well, I want to say that I think it's mass messaging, the mass media. It's the primary concern and would be the concern of any political party that was being treated unfairly, I'm sure. But I think you have to attempt to do it if you want to try to keep this thing even keeled. I think we have to try, and—

The Chair (Mr. Greg Sorbara): I'm just going to look to Mr. Kormos for a final question.

Mr. Peter Kormos: I'm fine.

The Chair (Mr. Greg Sorbara): I'm going to turn to Mr. Levac.

Mr. Dave Levac: I've been listening intently to the discussion, but first, let me start by thanking you and congratulating you on your appointment personally. You've got a handful of work to do, but we appreciate the fact that you're going to be doing this in a manner to make it better for people to vote. We deeply appreciate it.

Your presentation is based on third party advertising. To stay focused, I just want to give a couple of nod questions and then move into where I want to delve.

The first is, we're talking about third party spending limits—in your recommendation—third party contribution limits, third party advertising and the anti-collusion scope. Those are the four key points that you're making reference to, in comparison to other jurisdictions.

Mr. Greg Essensa: That is correct, Mr. Levac. I am suggesting that these are broader public-policy-related issues that this committee could turn its mind to as it's deliberating recommendations for the Legislature for electoral finance law enhancement or changes.

Mr. Dave Levac: I thank the Chair and the members for allowing me to participate, because this is intriguing indeed. The professionalization of service delivery, which is part and parcel of your capacity to do the scope of your entire job, would fit into this, and we've reached

consensus on three of the three items that were under that category. In that, the court challenge comments that have come out so far, that I've been privy to even before today, but including today—we're saying that anything, virtually, is up for a court challenge if we decide to do certain things within any changes we make.

In your experience with the other jurisdictions that you reported on that went to the four topics that you're bringing us today, are you aware of any court challenges that have taken place regarding spending limits, contribution limits, advertising or anti-collusion regulatory streams?

Mr. Greg Essensa: I am most familiar with the Supreme Court decision on Harper v. the Canadian Attorney General, which upheld third party registration, spending and reporting provisions when it was challenged by the National Citizens Coalition. There are other court cases. I am not as familiar with those, but we can certainly endeavour to provide you with some information on that.

Mr. Dave Levac: I'm guessing that would give us some guidance on how we respond to those four categories.

Mr. Greg Essensa: That would be correct.

Mr. Dave Levac: Is your office complaint-driven when it comes to—would it be complaint-driven if we adopt any one of those four or all four?

Mr. Greg Essensa: It would be complaint-driven. There is also the opportunity, though, if the Chief Electoral Officer sees what they view as a potential or apparent contravention, for me to undertake an investigation.

Mr. Dave Levac: And that would come out as a result of the discussion that Mr. Sterling raised regarding reporting of finances, either annually or during the writ.

Mr. Greg Essensa: That would be correct.

Mr. Dave Levac: The other question I had was regarding any other kind of—to stay focused again on third party advertising, were there any other bullets that came up as a result of your study and recommendations, beyond the four pieces, that would make an interesting change or direction for the province to go in?

Mr. Greg Essensa: I actually believe that you cannot look at election finance laws in isolation. That's why my primary recommendation when I appeared before the committee in December, and in my written submission, was that this committee undertake a comprehensive review of all of the election finance laws.

As Mr. Kormos and Mr. Sterling just alluded to, with the changing environment in the electoral industry, to phrase it with that term, with the advance of the Internet, with the advance of media such as Facebook, currently the election laws have not kept pace with those substantive technological changes as well as societal changes and practices.

I think it is incumbent upon the Legislature at some point to turn its mind to this in a comprehensive manner—I honestly don't believe that you can look at these issues somewhat in isolation, because they all do coalesce together at some point in an electoral cam-

paign—and to provide a regulatory framework that provides transparency, impartiality and ultimately, to the overseer, if that's the Chief Electoral Officer, the ability to clearly articulate and define in his guidelines and materials to parties and candidates what those rules are and where that line is, when they cross that line. That's very difficult, given the current electoral laws.

Mr. Dave Levac: So it's not too far-fetched and I don't think it's an exaggeration to observe that although it may be advantageous for us to look at that, it is not a stretch to assume that it would be pretty well impossible to maintain control over the Internet, because we could probably fill this room with volumes of binders on all kinds of lawsuits, all kinds of complaints. When you push a button, you don't necessarily know where that piece of information or advertising is coming from. It could be coming from China for all we know. So it's a little bit of a dog's breakfast to assume that we can pass legislation in order to stop certain advertising from happening. Is that not reasonably realistic?

1000

Mr. Greg Essensa: In my short time in this position, I have read copious amounts of notes from my predecessor, who would subscribe to that very theory; that he was challenged in the 2007 election, given some of the complaints pertaining to the changing world of the Internet and the ability to enforce that. The current regulatory framework provided an extreme challenge to him.

Mr. Dave Levac: That opens up my mind to so many other questions, but I'll pass on the guise of opening this up for the rest of the committee members who have dealt with this in a broader sense.

Mr. Norman W. Sterling: But the server, in terms of the Internet, is responsible for, liable, if they are aware of what's going on. So there are controls that are there. We had this discussion before on another issue—I forget which one we were talking about. We had a brief discussion about advertising. That doesn't mean that you shouldn't impose or try to impose a sanction for breaking the law with regard to the Internet. You may in fact be able to trace where that came from, and if you can trace where it came from, then you can mete out a penalty if it breaks the law.

The Chair (Mr. Greg Sorbara): I want to try to focus us back to third party advertising for a moment. Just so that all of us in this committee have a clear understanding, currently the law requires all third party advertisers to register with Elections Ontario.

Mr. Greg Essensa: That is correct.

The Chair (Mr. Greg Sorbara): Currently, the law requires all third party advertisers to respect spending limits in respect of their advertisements during a writ period. Is that right?

Mr. Greg Essensa: Currently, there are no spending limits pertaining to third party advertisers during the writ period. There is no limitation.

The Chair (Mr. Greg Sorbara): So there are no limits under the current law.

Currently, third party advertisers are required to report within a specific number of days after the election on all

revenues raised for the purposes of third party advertising and all expenditures made.

Mr. Greg Essensa: That's correct.

Mr. Norman W. Sterling: During the election period?

Mr. Greg Essensa: During the election period.

I just had one clarification that I want to make clear on the record. Third party advertisers are only required to register with the Chief Electoral Officer if they spend over \$500. Any advertiser below that is not required to register with the Chief Electoral Officer.

The Chair (Mr. Greg Sorbara): That's kind of a de minimus provision, isn't it? So if the local chamber of commerce in Tweed, Ontario, puts a \$200 ad in the Tweed weekly, there's no requirement—

Mr. Greg Essensa: There's no requirement for them to file or to register with Elections Ontario.

The Chair (Mr. Greg Sorbara): Mr. Levac?

Mr. Dave Levac: I want to come back to those four bullets I referenced. Those are what you're suggesting need to be evaluated. Using the examples of other jurisdictions, you said that we need to take a look at third party spending limits, third party contribution limits, third party advertising limits, and anti-collusion. Inside of that, you're suggesting that there have been court cases that have permitted the existence of third party participation, and as a matter of fact, continue to defend third party participation in the election.

Mr. Greg Essensa: That's correct.

Mr. Dave Levac: We're taking a look at the black-outs, when and where, day before, day of, that kind of stuff.

The Chair (Mr. Greg Sorbara): That's part of the deliberations.

Mr. Dave Levac: Part of the deliberations. So the recommendation you're making—and if I've got this right, confirm it for me—is we deal with those four topics. How we deal with that is up to the Legislature.

Mr. Greg Essensa: Those are matters of public policy and it would be inappropriate in my role as Chief Electoral Officer to provide recommendations on that. I think it is appropriate for me to identify these as what I would deem significant issues for the committee's deliberations on.

Mr. Dave Levac: I want to review this again: It's complaint-driven and investigated by you if it's brought to your attention through your research?

Mr. Greg Essensa: Correct, yes.

Mr. Dave Levac: Okay. And you know of one major court challenge, but we don't know the number of court challenges there have been in the past.

Mr. Greg Essensa: There are other court cases pertaining to this. I will endeavour, with my staff, to try and provide the committee with information on those court cases.

Mr. Dave Levac: Okay. Thank you very much for your presentation.

The Chair (Mr. Greg Sorbara): I have a couple of final questions. I see Mr. Sterling has a question as well.

Mr. Norman W. Sterling: I just want to get it clear on the contributions. Do we know, for instance, with Working Families, where all that money came from, the million dollars? Is that public knowledge?

Mr. Greg Essensa: Yes, that is contained in the report.

Mr. Norman W. Sterling: So if they come into the election period with a million dollars in their pocket, do they have to tell you where they got it from?

Mr. Greg Essensa: Any contributions that they would take in in the two months before the writ period, yes, they would have to disclose that. Any funds that they had prior to that two-month period, no, there would be no requirement for them to—

Mr. Norman W. Sterling: So you can avoid what political parties have to disclose, and that is who contributed, regardless of when they got the money. Third party advertisers have a better scheme in that they don't have to divulge who the contributors are if they've done it 60 days before the writ period, and they have unlimited amounts that they can expend.

Mr. Greg Essensa: That is the current law that is in place.

The Chair (Mr. Greg Sorbara): So, Greg, you make a number of recommendations here. In the end of your submissions you speak about the political advisory committee that you host. Now, you haven't been on the job all that long, but can you tell us a little bit more about how that is structured and what your expectations are for how its work would be done, particularly as it relates to election financing and perhaps even third party advertising?

Mr. Greg Essensa: Certainly. The political advisory committee was started by my predecessor. There are two representatives from each registered party in Ontario who are invited to meetings with myself and my staff quarterly throughout the course of a year. Those meetings are primarily driven by Elections Ontario as far as information that we share with them. With respect to election-finance-related issues, I have certainly committed at our most recent meeting, which was last month, that we would begin a very consultative process with the political parties to work on the current guidelines, the current materials that we provide from Elections Ontario to the CFOs, to the political parties and to the candidates, to ensure that we are providing the most up-to-date information with the most plain-language explanation on what their requirements are. We are undertaking a review of the current forms and materials that we currently provide to them and are attempting to host some information sessions with CFOs. We are asking that the political parties recommend to us who can help us provide the best practices in anticipation of the 2011 general election. So it is a very consultative process where we solicit feedback from the political parties and their relative experts, whoever they want to bring to the table to guide us on the materials and guidelines that we produce and forms that we produce so that we can make them as user-friendly as possible.

The Chair (Mr. Greg Sorbara): So if I could summarize—correct me if I'm wrong—that political advisory committee deals more with the nuts and bolts of how procedures and guidelines should be implemented rather than the larger policy questions of, say, third party advertising or anything else within your purview?

1010

Mr. Greg Essensa: There are times during the meetings when there are larger public policy debates on various items and issues. In particular relationship to this select committee, during our October meeting of the political advisory committee I invited all the political parties to provide me with their comments so that I could, in fact, provide them further on to the select committee. There are times where we do have very large public policy debates.

The Chair (Mr. Greg Sorbara): Okay. Just for the purposes of the committee, one final question on third party advertising and what exists now: Registration with Elections Ontario prior to the writ; is that correct?

Mr. Greg Essensa: Correct.

The Chair (Mr. Greg Sorbara): I think your—

Mr. Greg Essensa: My apologies. They can only register once the writ is actually dropped.

The Chair (Mr. Greg Sorbara): Oh, so registration happens post-writ?

Mr. Greg Essensa: Yes, correct.

The Chair (Mr. Greg Sorbara): And in the registration, what kind of information is provided through Elections Ontario to the people of the province? What is disclosed in the registration?

Mr. Jonathan Batty: The registration forms for third party advertisers look almost identical to the registration information that's provided by political parties, candidates and constituency associations. In the registration information, because there are extensive registration requirements in the statute, they have to identify their proper name, who their officers are and their contact information. It's quite a comprehensive application that they submit.

The Chair (Mr. Greg Sorbara): But in terms of budgetary issues, is there any requirement at the time of registration to disclose intended expenditures or amounts set aside to spend during the writ period?

Mr. Jonathan Batty: No.

The Chair (Mr. Greg Sorbara): Okay. Any other questions, then, on this issue? I think Mr. Sterling has a question.

Mr. Norman W. Sterling: Yes, just a last one on what you're talking about: As I understand it, political parties have to make very timely—

The Chair (Mr. Greg Sorbara): Disclosure on donations?

Mr. Norman W. Sterling: On contributors. What happens with third party advertisers in terms of their contributions? When do they have to divulge the contributors to you during the election writ period?

Mr. Greg Essensa: Real-time disclosure does not apply to third parties, so it is only when they file their

reports that they actually disclose who had contributed to them.

The Chair (Mr. Greg Sorbara): Real-time disclosures would be difficult for third party advertisers if they don't come into existence until after the issuance of the writ.

Mr. Norman W. Sterling: Why? I mean, these are not nickel-and-dime contributions.

The Chair (Mr. Greg Sorbara): No, absolutely not. I'm not disagreeing with the line of your questioning, Norm. I'm just saying that—

Mr. Norman W. Sterling: How do you know before election day if a third party advertiser is taking up your side or the other side?

Mr. Peter Kormos: You don't generate a million bucks in advertising cash—

Mr. Norman W. Sterling: Without having some sophistication.

Mr. Peter Kormos: —within a few days of the writ having been dropped.

The Chair (Mr. Greg Sorbara): I think, too, there's no—

Mr. Norman W. Sterling: When do they report? That's after the election?

Mr. Greg Essensa: Yes, that is after the election.

Mr. Norman W. Sterling: So, during the election the public and the political parties have no idea who's behind these—

Mr. Greg Essensa: Currently, the law does not require them to supply that information.

Mr. Dave Levac: Do they supply the information if, in the previous go-round, they existed? After the election, they would do the reporting and identify themselves, so if this organization existed in the election before, would that information not be available in the annual report or on your website?

Mr. Greg Essensa: To the best of my understanding, third parties only exist, for this purpose, temporarily. They have no annual reports under the current regime. As this was only imposed in the June 2007 amendments, this is the first time that we've actually had registrants for third parties.

Mr. Dave Levac: So at this time we don't know of the cycle that would exist for this? Because these organizations are doing fundraising year-round. That's what the implication is: They accumulate a certain amount of money over an annual basis and then show up for the election to drop the coin. Then it gets reported on after the election. Would that report not be extensive in order to give you the information that Mr. Sterling is asking?

Mr. Greg Essensa: Well, under the current—

Mr. Dave Levac: We won't know that.

Mr. Greg Essensa: Exactly. Under the current regime, this was only our first time where third parties had to register. If we move to the next fixed-date election, the next registrant for that third party would only have to identify for me who had contributed in the 60 days preceding the writ period. They would have no re-

quirement to in fact identify for me who had contributed in the three-year period between the elections.

The Chair (Mr. Greg Sorbara): Mr. Kormos brings up a really good point on that subject, that it's very difficult to determine the source of funds. If, for example, in the next election the Ontario Medical Association wanted to launch a campaign to lift the ban on extra billing—they've got a lot of money, and from time to time they do a lot of very effective advertising. Again, it's pretty much irrelevant who contributed to the cause in the 60 days prior. It would be part of the ongoing war chest of an organization like the OMA. Is that not right?

Mr. Greg Essensa: Yes, that would be my understanding—

The Chair (Mr. Greg Sorbara): A final comment from Peter, and then we've got some business to do and then we've got to wrap up.

Mr. Peter Kormos: But be careful, because there are at least two different types of third party advertising animals: There are the ones that are cobbled together for the purpose of the election campaign, even though they may exist year-round, and then there are other, long-standing organizations like the Ontario Medical Association, like the Registered Nurses' Association etc. The ones that are cobbled together I think are a little more mysterious than long-standing organizations or entities like the Ontario Medical Association.

The Chair (Mr. Greg Sorbara): There's no doubt about that.

Okay, I want to thank our witnesses this morning for coming, and once again my apologies for being late.

COMMITTEE BUSINESS

The Chair (Mr. Greg Sorbara): I just ask the committee's indulgence. We have a couple of small items of business to look to. The first is the approval of a small amendment to our budget in the amount of \$10,000.

Interjection.

The Chair (Mr. Greg Sorbara): For this fiscal year. We didn't have a budget for the current fiscal year, so the Board of Internal Economy has given its approval—and looking for the approval of the committee? I'm not sure that we'll spend it all, but we're setting it aside for that purpose. Agreed?

Mr. Dave Levac: Yes, we do, fully.

The Chair (Mr. Greg Sorbara): And then the second item of business is to propose a simple extension—I guess that comes in the form of a request to the Legislature—to take us to the end of June so that we'll have time to meet our timetable, which is a draft report in the next little while, followed by an opportunity for each of the members to submit minority suggestions or other opinions, translation, and then presentation. So the proposal to the committee is that we seek an extension of our life until the end of June.

Mr. Peter Kormos: Fine.

The Chair (Mr. Greg Sorbara): Everyone okay with that?

Mr. Dave Levac: I'm going to say yes on behalf of whoever is going to sit here.

The Chair (Mr. Greg Sorbara): It may well be you.

Interjection: He never says anything anyway.

Mr. Larry Johnston: Can I ask a question?

The Chair (Mr. Greg Sorbara): Yes.

Mr. Larry Johnston: Does the committee want me to go ahead and provide the information that Mr. Kormos requested on rules in other provinces and the background on the court case?

Mr. Peter Kormos: Yes, please.

Mr. Larry Johnston: And in completing the draft report, does the committee wish me to treat third party advertising?

Mr. Peter Kormos: Well, Dave, you're going to see the democratic process of this committee right now. It's a sight to behold.

The Chair (Mr. Greg Sorbara): Look, the answer is yes and no. The yes part of it, I think in the majority report you could say that the committee had heard from the Chief Electoral Officer on third party financing, a number of issues were raised, and you could enumerate some of those issues. That opens up the topic. I would not like to see in the body of the majority report, for want of a better term, majority report, any decisions, because this committee hasn't taken a position. But—let me finish—that opens up the topic and it gives an opportunity for both Mr. Sterling and Mr. Kormos to set out where they think the law should go on third party advertising.

Mr. Peter Kormos: I think, to be fair, the report could say that the committee was shocked and appalled at the lack of regulation of third party advertisers.

The Chair (Mr. Greg Sorbara): I think that might be appropriate for whatever comments you, on behalf of your party, wanted to put in.

Mr. Peter Kormos: I'm shocked and appalled. Mr. Sterling isn't.

The Chair (Mr. Greg Sorbara): Mr. Sterling is certainly not shocked and appalled. He's very concerned; he's very deliberate and articulate on the subject.

Mr. Norman W. Sterling: I'm more than shocked and appalled.

The Chair (Mr. Greg Sorbara): He doesn't look shocked and appalled to me.

Mr. Peter Kormos: He's on record now. Dave?

Mr. Dave Levac: Are you asking me if I'm shocked and appalled?

Mr. Peter Kormos: Are you shocked and appalled?

Mr. Dave Levac: Very little shocks and appalls me any more.

The Chair (Mr. Greg Sorbara): Peter, we'll address it as an area for discussion and then let's leave the shocking and appalling parts to those who are shocked and appalled. Look, I don't really think it has all that much effect. I remember very well the "Dalton McGuinty: He's just not up to the job" third party advertising. All great stuff. Ultimately, it didn't have much of an impact when Dalton McGuinty was up for the job in 2003.

Mr. Peter Kormos: In terms of political culture, third party advertising is most useful as negative advertising. By not regulating third party advertising, we are endorsing, implicitly, American-style negative advertising. That does not enhance the political culture.

The Chair (Mr. Greg Sorbara): Look, I think if we actually were to review the data and submissions, I don't think the total amount of third party advertising from all third parties would total what one political party spent during a period.

I am perfectly willing for there to be a section where certain members are shocked and appalled. That's a decision that you have to make. I'm satisfied that the report could reference the fact that there were submissions from the Chief Electoral Officer on the issue and that he recommended that further work be done with a view to changing the law. I don't mind that being in the report. I am not going to endorse that position. It's pretty late to get off on that tangent. But be eloquent, be shocked, be appalled and continue the debate after the report is submitted to the Legislature.

The Clerk of the Committee (Mr. Trevor Day): Chair, if I can: Speaking on the report, Larry, I believe, can have a draft report ready for the end of next week. Are we going to meet back again to take a look at it? How are we going to move the process along from there?

Mr. Peter Kormos: Why don't we get the report and meet at the end of next week, then meet immediately after we—

The Chair (Mr. Greg Sorbara): I'm going to be away until May 21. I will get a copy of the report whilst I am away, and I'm hoping—

Mr. Peter Kormos: Should we join you?

The Chair (Mr. Greg Sorbara): I hope not, frankly. If you end up where I am, it won't totally ruin the trip, but I'm hoping—

Mr. Peter Kormos: I'm all the more eager to go now.

The Chair (Mr. Greg Sorbara): I'm going to visit my daughter.

Mr. Peter Kormos: Well, okay. Where?

The Chair (Mr. Greg Sorbara): In London.

Mr. Peter Kormos: Very nice.

The Chair (Mr. Greg Sorbara): The other one.

Mr. Peter Kormos: This is your—

The Chair (Mr. Greg Sorbara): This is the singer; this is the super rock star—

Mr. Peter Kormos: Who is operating out of England now; yes?

The Chair (Mr. Greg Sorbara): That's right.

Mr. Peter Kormos: Very good.

The Chair (Mr. Greg Sorbara): So I'm hoping that during that time each of us can get the report and digest it, and if there are amendments and minority positions that are to be written, that will be fine. I put "minority" in quotation marks. But if there are separate positions that want to be articulated, good, and maybe we could meet shortly after May 21 to take the thing to the next step with a view to getting it to a state of being ready to be

translated by the beginning of June and be able to submit to Parliament by the end of June. Agreed?

Mr. Dave Levac: I'm okay with that.

The Chair (Mr. Greg Sorbara): Okay.

Mr. Peter Kormos: Darn right you are.

The Chair (Mr. Greg Sorbara): Thank you all very much.

The committee adjourned at 1024.

CONTENTS

Thursday 7 May 2009

Review of election legislation	EL-89
Office of the Chief Electoral Officer of Ontario	EL-89
Mr. Greg Essensa, Chief Electoral Officer of Ontario	
Mr. Jonathan Batty, director, election finances, and general counsel	
Committee business	EL-99

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